PARLIAMENT OF TASMANIA

LEGISLATIVE COUNCIL

REPORT OF DEBATES

Wednesday 17 November 2021

REVISED EDITION

Contents

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The President, **Mr Farrell**, took the Chair at 11 a.m., acknowledged the Traditional People and read Prayers.

RECOGNITION OF VISITORS

Mr PRESIDENT - Honourable members, I would like to welcome to the Chamber some visitors from the Devonport Christian School who are here to see what we get up to in our House of Parliament. We know that all members would join me in making sure you have a good time here in the Parliament and making you feel most welcome.

Members - Hear, hear.

JUSTICES (VALIDATION) BILL 2021 (No. 52)
OPCAT IMPLEMENTATION BILL 2021 (No. 49)
HOUSING LAND SUPPLY AMENDMENT BILL 2021 (No. 51)

Third Reading

[11.02 a.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I move -

That the bills be read for the third time.

Bills read the third time.

SUSPENSION OF SITTING

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I move -

That the sitting be suspended until the ringing of the division bills.

This is for the purpose of our briefings on TasTAFE.

Motion agreed to.

Sitting suspended from 11.04 a.m to 12.30 p.m.

REPEAL OF REGULATIONS POSTPONEMENT BILL 2021 (No. 59)

Second Reading

[12.31 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I move -

That the bill be now read the second time.

The purpose of this bill is to postpone the automatic repeal of the Fair Trading (Code of Practice for Retail Tenancies) Regulations 1998 until the 1 January 2023.

The Code of Practice for Retail Tenancies Regulations establishes a range of obligations on parties who enter into retail lease agreements, including leases in shopping centres. Such obligations include requirements regarding market rent, disclosure statements, methods for determining rent adjustments, the negotiation of adjustments, renewal and termination of leases, security deposits and indemnities.

The regulations were first made in 1998 under the Fair Trading Act 1990 and then reinstated in 2008 for a period of two years by the Fair Trading (Reinstatement of Regulations) Act 2008. In 2010, the regulations were again remade, this time by section 49 of the Australian Consumer Law (Tasmania) Act 2010, affording them a new repeal date of 1 January 2021.

Section 25 of the COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020 provided for the postponement by one year of all regulations and rules specified within schedule 1 of that act, including these regulations. This now means that the regulations will be repealed on 1 January 2022.

Stakeholders have been critical of the regulations in recent years for being outdated and not having kept pace with modern business or leasing practices. It is for this reason that the minister responsible tasked her department to commence a review into the regulations of retail leases in Tasmania in 2019. This review and public consultation attracted a range of views in late 2019.

In the intervening period, significant resources were committed to assisting retail and commercial tenants due to the impacts of COVID-19. It is for this reason the Tasmanian Government put in place protections for commercial tenants via the COVID-19 Disease Emergency (Commercial Leases) Act 2020. These measures provided vital and timely support to Tasmanian businesses.

COVID-19 continues to have a significant impact on Tasmanian businesses.

Following the 2019 review and consultation into the regulations of retail leases in Tasmania, a new retail leases bill is in the process of being drafted. This new retail leases bill will seek to provide a modern and effective framework for the regulation of retail leases in Tasmania.

It is essential for our Government to provide Tasmanian businesses and stakeholders with sufficient time to review and comment on the new draft retail leases bill. This is even more the

case in light of what Tasmanian businesses have experienced throughout the last almost two years.

The Repeal of Regulations Postponement Bill 2021 will continue the current code of practice for retail tenancies regulations for a period of 12 months to ensure that Tasmanian businesses are provided sufficient time to review and provide feedback on the new retail leases bill. The code of practice regulations will continue to work as they do currently, and will continue to ensure that Tasmanian businesses are afforded the minimum standards and protections that the regulations provide.

As usual, Mr President, during any second reading contribution on this bill if any member wishes to break for a briefing, I am happy to do so. In the meantime, I commend the bill to the Council.

[12.35 p.m.]

Ms FORREST (Murchison) - Mr President, I intend to support the bill, subject to answers to a couple of questions. I note, thankfully, that the dark old days of a postponement repeal bill that had about 20 regulations or more listed for repeal due to slackness of departments in getting their statutory reviews done is a thing of the past. We occasionally get one. I recently said that we had not seen one of these for ages; I think it was in the subordinate legislation committee. Then, the next day this landed on the desk. I thought, right, do not think about those things.

I understand the rationale behind this request but I am a little confused about what appears to be some contradiction in the second reading speech. I do not have a problem with extending the period to allow for consultation on a new series of regulations. As the Leader said in her speech, there is a new bill to come - the retail leases bill. The second reading speech states that following the 2019 review, which was done pre COVID-19, and consultation into the regulation of retail leases in Tasmania, a new retail leases bill is in the process of being drafted.

That was already underway. I expect that the new regulations would have sat below that bill, had that bill been progressed. That is the question. In the beginning of the speech, the Leader outlined the process. Different heads of power have been provided to give effect to subordinate legislation related to these areas. She said the first regulation was made in 1998 under the Fair Trading Act; they were reinstated in 2008 for a period of two years by the Fair Trading (Reinstatement of Regulations) Act 2008. In 2010, the regulations were again remade, but this time under section 49 of the Australian Consumer Law (Tasmania) Act 2010, affording a new repeal date of 1 January 2021, being the 10 year automatic repeal period.

Then we had the COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020. That provided for the postponement of all regulations and rules specified within schedule 1 of that act, including these regulations. Now, it does not have a repeal done in January 2021, which has passed; it now has a repeal of January 2022, which is not that far away. I understand that an additional 12 months is being asked for this. I note the bill that was being drafted in 2019, which started in relation to the review of - as the sector was saying - outdated regulations. My question is, is further consultation needed? Maybe that is a result of matters being raised through the COVID-19 issues.

Mrs Hiscutt - Through you, Mr President, there is further consultation ongoing, yes.

Ms FORREST - So we need another 12 months, or an allowance of 12 months to complete that review of the draft retail leases bill; and as such, presuming that is brought into parliament and supported, there will be regulations that deal with these matters under that bill. Is that what we are waiting for? We are not waiting to remake regulations under the Fair Trading (Code of Practice for Retail Tenancies) Regulations. Will there be regulations under the new retail leases bill?

Mrs Hiscutt - I think I will be able to provide some clarity on that.

Ms FORREST - You are responding in the debate on that. If that is the process here, that is fine. I do not have a problem with providing that extra 12 months, particularly in light of what we know happened in 2020 and how this was a very busy area. I know that the minister's staff were very tied up supporting people not only in retail tenancies, but also residential tenancies and supporting the people of Tasmania through that difficult patch when incomes were fraught and no-one knew what was coming next. If the Leader could address her mind to those questions, I intend to support the bill, but I want some clarification.

[12.40 p.m.]

Ms RATTRAY (McIntyre) - The matters raised by the member for Murchison are worthy of the Leader's attention and I feel sure answers will be provided and there will be a level of comfort.

We understand the issues, as the member for Murchison said, regarding retail leases. They particularly came to the fore during the COVID-19 pandemic where the minister's staff were very busy dealing with requests for assistance. A significant amount of funds wasprovided through that process to support Tasmanian businesses, and rightly so. It was important people were able to continue to have their business premises available.

It is prudent we look at a modern framework. I am really pleased to hear the minister has advised the department we need time to consult. How often in this place do we talk about the lack of consultation? I expect, if we get to another bill this week or next, we might be talking about the lack of consultation. Some departments do it really well, perhaps others not so well. We will leave that for another time. To have that time for input, particularly into a modern framework, is entirely appropriate. I feel sure they will need that extra time.

I am of a mind to support the repeal bill and can attest to the fact the member for Murchison did make that comment in the subordinate legislation committee that. Then when it came onto the Notice Paper and was read by the Clerk that the bill had arrived, the member for Murchison looked straight and me and said, I spoke too soon. She had the thoughts but it did not quite pan out. In this instance, it is entirely appropriate and I look forward to seeing that legislation and the regulations that will sit alongside it in future. I support the bill.

[12.43 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - The forthcoming retail leases bill will wholly replace the retail leases regulations. It will be a standalone bill - that is, new primary legislation. While it may have regulations, it will primarily regulate through statute. This is appropriate as it impacts on the rights of the parties involved.

The member for McIntyre spoke about consultation. The consultation draft of the retail leases bill is currently being finalised and will be provided for public consultation during the first half of 2022. The postponement of repeal of the current code of practices regulations by 12 months will provide sufficient time for thorough consultation on the draft bill, prior to introduction to the parliament during 2022. Retail leases impact upon a significant number of Tasmanian businesses so it is important that we provide time for the businesses to consider the proposed changes within the draft bill.

Bill read the second time.

REPEAL OF REGULATIONS POSTPONEMENT BILL 2021 (No. 59)

In Committee

Clauses 1, 2, 3, 4 and 5 agreed to.

Bill reported without amendment.

GAMING CONTROL AMENDMENT (FUTURE GAMING MARKET) BILL 2021 (No. 45)

In Committee

Resumed from Tuesday 16 November page 119.

[12.49 p.m.]

Madam CHAIR - Before we restart the process here, we have not got long before the lunchbreak, so I ask if members have a number of questions of the Government they ask them more slowly, one at a time, so that the advisers have time to record the question. Hopefully, that way we will get answers to each of the questions, acknowledging that people only have three calls each.

If there are a number of questions to be asked on a particular clause, can members who are asking the questions check that the advisers have got the question, then hopefully there is a better chance of getting answers. Is that clear?

Further to that, if members have particular questions that they have in writing, it may be helpful to provide that to the Leader as well, in order to get answers to all the questions that you have. We are just trying to get answers for people. This is what this process is for in an ideal world.

Clause 22 -
Section 148A amended (Annual Tasmanian gaming licence fee)

Madam CHAIR - For the members' benefit, on clause 22: the member for McIntyre has had one call, the member for Huon has had two, and the member for Nelson has had three.

Mrs HISCUTT - In response to clause 22, with the estimates of simulated racing expenditure, to clarify what was previously stated, the estimate of simulated racing player expenditure was based on information derived from a number of sources, primarily data from other jurisdictions, namely the ACT, NSW and Victoria.

Those figures were converted to a Tasmanian equivalent and reality tested against previous experience in Tasmania, data from product providers, i.e. Tabcorp, and the Australian gambling statistics.

Considering the size of the trackside market in other jurisdictions and then applying those proportions to the Tasmanian race wagering market, the following indicative annual turnover amounts were derived for Tasmania.

Using the ACT data, Tasmanian turnover would be $1.01 million. Using the NSW data, the Tasmanian turnover would be $1.14 million. Using the Victorian data, the Tasmanian turnover would be $1.7 million. Based on this data, a conservative estimate for Tasmania was made that the play expenditure would be in the order of $1 million. Thus, with a tax rate of 15 per cent, the revenue is estimated to be $150 000 per annum.

Mr VALENTINE - I have reviewed the exchange that took place last night just before we rose. It is in relation to the totalisator licence arrangements in 2019 and the current bill and licence fees, which relate to simulated racing that is in this bill.

Basically, I need to get some clarity around the relationship there. Have fees applied to the totalisator licence incorporated a fee for the simulated racing licence on the assumption that this bill would pass with those licence arrangements in place?

I will give you two questions. If the totalisator licence fee has incorporated a fee for the simulated racing licence, what portion of the 925 000 fee units does it comprise? If there are businesses that have been paying the totalisator licence fee since 2019, have they been paying for a simulated racing licence that does not yet exist?

Mrs Hiscutt - I thank the member for taking his time to make sure that was understood. I will seek some advice.

Sitting suspended from 1 p.m. to 2.30 p.m.

QUESTIONS

Wild Fallow Deer - Potential for Commercial Use

Ms LOVELL question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

[2.31 p.m.]

Earlier this year, the Government contracted a private consultant using public money to prepare a comprehensive report into the feasibility of a trial to look at the potential for commercial use of wild deer.

This report was submitted to the minister but I understand has not left his desk and was not referenced in the recently released Draft Tasmanian Wild Fallow Deer Management Plan which is now open to public consultation.

Will the minister release the report in order to enable the public to make informed comment on the draft deer plan?

ANSWER

Mr President, the Government's policy in relation to the commercial use of wild-shot deer was made clear at the last election. The potential wider use and sale of wild-shot deer products will not be considered until the impacts of the many other deer management strategies currently being deployed are evaluated through the implementation of the new Tasmanian Wild Fallow Deer Management Plan. The draft plan is currently out for public consultation.

The report that is requested was advice to the Government that informed this position and the development of the draft plan. To be clear, the report requested was advice to the Government.

Ms Lovell - So, the minister will not be releasing it?

Mrs HISCUTT - I cannot add any more.

Removal of Spion Kop Barbecue Shed at Black River - Circular Head

Ms FORREST question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT

[2.32 p.m.]

With regard to the recent removal of a popular and well-utilised barbecue shed on the western side of the Black River near Spion Kop in Circular Head:

(1) Who, or which department, made the decision or is responsible for the removal of the shed?

(2) Why was the decision made to have it removed rather than restored?

(3) If maintenance could have addressed any safety or upkeep issues, why was it not maintained rather than removed?

(4) Were members of the community who use this shed consulted, and if so, who was consulted? If not, why were members of the local community not consulted?

(5) Will the shed be replaced? If not, why not?

ANSWER

Mr President, the Black River picnic site and Spion Kop Road were transferred to the Tasmanian Parks and Wildlife Services in 2013 from Forestry Tasmania through the

Tasmanian Forestry Agreement. The land is classified as future potential production forest land.

The decision to remove the shelter was authorised by PWS Regional Manager North West on the basis of specialist engineering advice. The area consists of a picnic site on either side of the river, each with a small shelter and a concrete ford across the river as part of the Spion Kop Road.

In response to community concerns about the condition of the road and the facilities at the site, the Government committed $35 000 to improve the road and facilities. That was in collaboration with the local community. The PWS completed improvements on the road in early July. An engineering assessment was also undertaken of the shelters. The assessment found the shelter on the eastern side of the river was basically sound, but required reroofing. The shelter on the western side was found to be in poor condition, dangerous and the engineer recommended demolition as soon as possible due to the unacceptable risk to public safety. The structure was deemed to be unrecoverable.

PWS have been working with the Smithton Rotary Club regarding improvements to the shelters and the site overall. The Smithton Rotary Club was aware of the engineering assessment, of the outcome and the plans to remove the shelter. Discussions are ongoing between the Smithton Rotary Club and PWS regarding detailed planning of the works to improve the site. Current works proposed will include reroofing the shelter on the eastern side and the installation of a concrete slab with a picnic table on the western side. The works will be jointly undertaken by the Smithton Rotary Club and PWS. Materials from the demolished shelter are planned to be used by the Rotary Club in the new development work, as in, for example, picnic tables.

GAMING CONTROL AMENDMENT (FUTURE GAMING MARKET) BILL 2021 (No. 45)

In Committee

Resumed from above.

Clause 22 -
Section 148A amended (Annual Tasmanian gaming licence fee)

[2.35 p.m.]

Mrs HISCUTT - Before the break, I was finding some responses for the member for Hobart.

By virtue of section 150A(c) as amended in 2019, the act currently sets an annual levy, effectively a licence fee, for the totaliser operator of 925 000 fee units. The Government's intention was that this would be the total levy for the totaliser operator for all of the products offered under the licence.

Consequently, section 148A was also amended at subsection 5 in 2019 to ensure that simulated wagering, called 'a simulated game' at that time, being a product commonly offered in TAB premises in other jurisdictions, was added as an endorsement that could be offered

without increasing the amount payable. The amount was not dependent on the availability of simulated wagering. However, the amendments in 2019 were to make clear that, were such to occur, the levy on the totaliser operator would not change. It should be noted that the levy can be changed by regulation should a future government so determine.

Madam Chair, that was an answer. That was on the principal act.

The next question was, what portion of the levy is simulated wagering endorsement? As 925 000 fee units is the total of all products, it is not possible to apportion it. However, as a standalone endorsement the simulated wagering endorsement is 300 000 fee units.

The next question was, in the 'current licensee', is the current licensee paying for a product that they do not have the benefit of? No. The current charge is fixed regardless of which of the possible total related endorsements they offer.

Mr VALENTINE - It seems strange to me that we set up a system which has a cap on it that means that those who get a licence end up not paying a licence fee to us because they are already paying over the cap for the levy.

There is only one question left. Regarding the million-dollar loss calculation for the expanded simulated racing arrangements, does that modelling that has been used to calculate that particular figure include any change in any losses expected in other forms of gambling?

Mrs HISCUTT - The simple answer is no, it does not.

Clause 22 agreed to.

Clause 23 -
Section 150A amended (Taxation in respect of Tasmanian gaming licence)

Ms WEBB - I recognise people may have questions on this clause too, but I will do the amendment that I have to it, then I may have questions after that, once I have dealt with the amendment. I believe that is okay. I have separate calls.

Madam CHAIR - I believe it is a request you are going to make, not an amendment.

Ms WEBB - Sorry, yes, I will get to that. I want to clarify I have a separate set of calls for questions after we have dealt with this part first, the request for amendments.

Madam CHAIR - There are three calls on the clause, and three calls on the amendment. If you move the amendment first, you have three calls on that and then anyone else who wants to speak will speak on the amendment. Depending on whether that is supported or not, we then go back to the clause as amended, or the clause as it is read.

Ms WEBB - Thank you. This is an unusual one. As members will note, the clause relates to taxation so rather than an amendment, this is a request for amendment. You will find it on the one-page document that was shared. I will read it in, clause 23, page 31 -

Madam Chair, I move -

> That the House of Assembly be requested to amend paragraph (e) of Clause 23 by increasing 15% in the proposed new subsection (6B) to 20.31%.

I will explain that change and why it is a request for amendment from the other place. That clause I am seeking a request for amendment to relates to the taxation rate on simulated gaming. The thinking behind this is to make taxation rates consistent. I have other requests for amendment that relate to taxation that we will get to in due course that apply the same principle: that is, that similar products should be taxed at a similar rate.

The idea of that, certainly from the perspective of the state, is to ensure that we are getting the best financial outcomes we can from gambling products, which we know can generate considerable profits through those losses that are made to them. Of course, we would want to be mindful of receiving an appropriate share of that. In fact, it is in the objects of this act that an appropriate share is apportioned to the state as a result of this legislation.

This relates to simulated racing when it is out, expanded into the community and available - say alongside Keno - in a venue, as it may be in many hotels ultimately through this legislation. Both those products are essentially random number generators. They are both involved with screens showing graphics. They are available to people. Keno and the simulated racing will be available to people in the same environment. They carry with them similar risks in terms of people's engagement with them and the potential for gambling harms.

I note that in this legislation we have made an adjustment to the taxation rate on Keno in hotels. We have brought that up from the current 5.88 per cent up to 20.31 per cent. This request for amendment is suggesting that simulated racing, when presented in those same venues - as a similar product - would be taxed at that same rate, 20.31 per cent, just like Keno. It is a situation about consistency and an appropriate share for the state and therefore the community, remembering that the returns from these products can be utilised for good purposes in our community.

This request for amendment does not affect any of the structural changes occurring in this legislation. It disrupts nothing in the LMO, tender process or the arrangements for individual venue licences and the like. It is not a disruptive change. It is a change that is mindful of that question, are we getting the best deal for our state, are we getting the best deal for Tasmanians? I will leave it at that for my first contribution and am happy to engage with people if they have questions or comments on that proposition, but it is about consistency, similar products and gaining appropriate returns.

Mrs HISCUTT - The Government does not support the member for Nelson in this. The tax rate of 15 per cent for simulated racing is set at the same rate as other gambling activities conducted in TAB locations. This ensures the same return to Government, regardless of whether the racing events are live or virtual. The rate is also in the context that the TAB operator pays a significantly higher licence fee at 925 000 fee unit than other Tasmanian gaming licence holders. Further, there is no tax-free threshold as there is for live racing events in other jurisdictions. The current rate if operated as a casino game is 0.88 per cent so, this is an increased tax rate.

Dr SEIDEL - I think the member for Hobart made a point that you are putting a cap on the fees and now we are hearing from the member for Nelson that we are now discounting the tax rate. My question: is there a policy rationale for effectively discounting the tax rate for simulated racing because if that is the case, why is it? What is the rationale for it? In what way is the Government encouraging simulated racing events to be put out in the community knowing that we have an overall cap anyway? If I was a business, I would focus on simulated racing because it does not cost me more: same discounted tax rates and probably increased profit for the operator, so what is the policy rationale?

Mrs HISCUTT - It is an increased tax rate of 0.88 per cent. It is not a discounted rate at all and it is a TAB product. It is a different licence holder and operator and it is a different licence holder and operator from Keno.

Ms WEBB - Let us be clear here. This product though you have said, is offered in casinos for a rate of 0.88 per cent, an incredibly low tax rate to offer this product, which is essentially the random number generator on the screen with pretty pictures. It is similar to other random number generators like poker machines, or like Keno, the same sort of product: electronic, fast frequency, carries the same sorts of risks in terms of the way it can be engaging and enticing. It is offered in casinos already at 0.88 per cent.

The other argument though was this rate of 15 per cent has been set to be consistent with other TAB products, like live racing and I presume that is where (and perhaps you could give me a nod) the 15 per cent comes from. That is the same consistent - I am getting a nod so that means the Government has applied a principle of consistency here. When we expand simulated racing out into other venues from a casino, they have said, we will not tax it at the same rate it was taxed in casinos when we offer it in these other venues. We will be consistent with the TAB live racing rate, equating it with that product on the basis the licensing by the sound of it comes under the same banner.

What I am proposing is we apply consistency based on similar products instead because other than TABs, this will also be offered in your local pub, alongside Keno. It is a similar product in that it is random number generator, it is on a screen, it happens with high intensity and you can bet frequently on it. Certainly, more high intensity than live racing. The product is similar to Keno. It is going to be offered in venues alongside Keno. It will generate losses and therefore profit alongside that, which we will be taxing. My proposition is that as a state, in recognition of the type of product it is and the venues that we are offering it in, alongside other similar products, we would consistently tax it at the same rate as those products. That is what this request for amendment proposes to do - to bring it to the same rate that we are proposing to put on Keno in those hotel venues: 20.31 per cent.

The Government is saying, in essence, that 'we are going to give some extra profit to this business that runs these games.' These gambling products - simulated racing - generates easy and ready profits. It is a number generator on a screen with pretty pictures. This is about who takes what slice of the money that is lost and spent on those products. The Government is choosing to provide a gift to the businesses that run that, instead of recouping an appropriate share to the state. Who bears the risk and the harm that may be caused by it?

I do not believe it meets the objects of this act to equate this product to dissimilar products, such as live racing. I believe it meets the objects of this act, both in the share of

returns and in the protection of players, to tax this product in terms of similar products and set it at the rate we tax Keno. Hopefully, I have given you the argument for this and it is clear.

I have another call, so if there are further questions or comments about it, I am happy to engage with them. How surprising that the Government would seek to get the best deal for our state and our community here. How surprising that the Government would be prepared to forego money, even if it might not ultimately be a large amount in the bigger scheme of things. However, there is a principle at play, in terms of consistency amongst similar products and in terms of who bears the risk. I hope members will consider supporting this, remembering too, it is a request for amendment, because we cannot amend it here. We send it as a request for amendment back to the other place; and I consider that is an important message to be giving about what this Chamber would regard as the best deal, and the best way to consider arriving at that deal, regarding these taxation rates - this one in particular for this request for amendment.

Mrs HISCUTT - It would be offered in venues with TAB outlets, not necessarily with Keno, or alongside Keno. I also note that, comparing the tax rates with those in ACT, NSW and VIC, Tasmania would have the highest tax rate for simulated racing at 15 per cent of net wagering revenue (NWR) and Tasmania would not have a tax rate threshold like New South Wales and Victoria. I urge members not to support this this request for amendment.

Madam CHAIR - The question is that the request be agreed to.

The Committee divided -

AYES 4	**NOES 9**
Mr Gaffney (Teller)	Ms Armitage
Dr Seidel	Mr Duigan
Mr Valentine	Mrs Hiscutt
Ms Webb	Ms Howlett
	Ms Lovell
	Ms Palmer
	Ms Rattray (Teller)
	Ms Siejka
	Mr Willie

Request negatived.

Clauses 23 agreed to.

Clauses 24 and 25 agreed to.

Clause 26 -
Section 152 inserted

Ms WEBB - Madam Chair, I move the following amendment -

Page 33, proposed new section 152, after subsection (1).

Insert the following subsections:

(X) The Commission must -

(a) conduct a review of the findings or report tabled by the Minister under subsection (1)(b); and

(b) cause a report on the review under paragraph (a) to be tabled in each House of Parliament within 20 sitting-days of that House after the tabling of the findings or report under subsection (1)(b).

(Y) The Minister must cause to be tabled in each House of Parliament, within 20 sitting-days of that House after the tabling of the report under subsection (X)(b), a written response to the following:

(a) the findings or report tabled by the Minister under subsection (1)(b) that were or was the subject of the report under subsection (X)(b);

(b) the report tabled by the Commission under subsection (X)(b).

To explain and talk through this amendment that I am seeking to clause 26: this relates to the social and economic impact study that was undertaken into gambling in this state and has been for a while now, since 2008.

In essence it requires that when that periodic social and economic impact study is done and published that the commission would be directed to conduct a review of the findings that are there in this independent report and provide its own report to be tabled in parliament. Then it would require the minister to also table a response in parliament to both the SEIS and the commission's response, for a government response to the package.

Why would we want this to happen? Certainly, one reason we might want to, is if we look back to 2008 when the first SEIS was undertaken in this state. At that time, the then Treasurer, who would have also been the finance minister in order to be able to direct the commission, directed the commission to do a response to that first SEIS. That became a policy response from the commission provided to the minister and became a public document.

It was a very insightful document that provided a good local response and context to the data that was in the SEIS and helped bridge a gap, potentially, in its reflection and advice between the data collected in the research report and what Government might like to consider in terms of policy.

It is a very good way to see brought to life a policy response to a research report and data. That was a very useful response at the time and it remains useful to us today. We can refer to it for good information about the commission's view on a range of things from that time, and see some of that tracked through, indeed, in the commission's advice in other contexts through to this day.

It is a reasonable expectation of the state which invests in excess of a million dollars in the production of these SEIS reports, periodically. Currently it is every three years. I think this bill seeks to make it every five years. Either way, it is a large investment in a piece of research and data most of us would like to expect would then inform and be of assistance to policy. This is about ensuring there is an active way that can happen.

It contributes to the objects of this act, to put this requirement in there. It contributes to a more comprehensive evidence base that would feed through into each of the objects of this act, both the licensing supervision and control of gambling. That is one: ensuring the conduct of fair, honest and transparent gambling; protecting people from being harmed by gambling; another object of the act.

Madam CHAIR - I think we need to be careful not to stray back into a second reading speech. You will need to focus on the amendments rather than revisiting the second reading speech.

Ms WEBB - My apologies, Madam Chair. I do not believe I was steering into it. I was making a case about the objects of the act.

Madam CHAIR - A lot of these comments were made during the second reading. We need to focus on the amendment before us, rather than all the history around the SEIS.

Ms WEBB - At this moment, I am pointing to the way this amendment aligns to the objects of the act.

Madam CHAIR - That was done during the second reading too, so let us focus on the amendments please.

Ms WEBB - I note a range of stakeholders in the processes of submissions to this bill have supported this kind of initiative being required as a response to the SEIS, as a normal part of that SEIS process that a response from the commission would be made. That was included in submissions from TasCOSS and others.

This does not disrupt anything to do with the passage of this bill or the structural elements involved in the bill in no way whatsoever. It does not impact on industry in any way. It is not a detriment to anyone and it fully utilises the independent expertise we have in the Liquor and Gaming Commission and contributes to good policy advice in the public domain on this very complex and sensitive area of social policy.

That is my thinking in this amendment. It is a really positive and protective thing for us to do shoring up the information and research available to us and helping that feed through into our regulatory system and into our policy.

Mrs HISCUTT - The Government will not be supporting this amendment as the commission can already review and provide advice in relation to the findings of the SEIS if directed or desired.

However, tabling of the report in parliament is not necessary, especially within the 20 sitting days of tabling. It does not provide sufficient time for adequate consideration of any findings. These independent studies are substantial. Their findings are highly anticipated by

stakeholders. Time is required to fully consider the findings. Requiring the commission review and provide policy advice and recommendations within 20 sitting days of the tabling of the SEIS for the minister to provide a written response to the SEIS and the commission's report within 20 sitting days of the tabling of the commission report is contradictory to making best use of these substantial studies.

Mr VALENTINE - The whole purpose of the thing being tabled is to give parliament an opportunity to be able see what is in that report. Obviously, having the commissioner's impressions of it would be really important. It is a bit late after the event. I am a bit bemused by the response just given. It is parliament we are reporting to here. Parliament needs the fullest information available to it when considering reports like this. It may be that no-one takes it up and moves for disallowance or whatever. It needs to be there. The full information needs to be there for members of parliament to be able to absorb how things are going and is just good information.

Ms RATTRAY - I was going to ask the question, but the Leader already answered it, about whether the commission would be, by a matter of course, looking at the independent review. Would it be easier to amend, 'the minister must cause an independent review of the social and economic impact of gambling in Tasmania to be carried out every five years, and that the Commission review that.' Is that a simpler approach as you have already indicated that is going to happen as a matter of course?

The member has gone to a lot of trouble to put together this amendment, but it seems like a very long-winded amendment, when it could simply say the minister must ask the commission to do what the Leader has already said will happen as a matter of course. I am interested in the Leader's response to that request: a simple amendment just pointing to the commission doing what they are going to do.

Mrs HISCUTT - This bill has been consulted on and consulted on. This is where the Government has landed. These responses take months and months to prepare. What we have here in the bill is what the Government has landed on. That is what we would like to stick to; therefore, we still oppose the amendment.

Dr SEIDEL - I think the member for McIntyre made quite a reasonable point, in particular noting the objects of the act clearly state that it is about ensuring gambling is conducted in a fair, honest and transparent way. Would it not be in the interests of the Government to ensure that through legislation? It is entirely reasonable to consider the concerns the member for McIntyre raised.

Mrs HISCUTT - Just for the last time, the Government can not add a lot more, other than the commission can already review and provide advice. It is already there. It just takes months and months to prepare.

Madam CHAIR - The member for McIntyre. I just remind the member if she wants to move an amendment, she needs to do it in writing.

Ms RATTRAY - Yes, I know. I am not going to waste a lot of OPC's time if the Leader is not going to accept an amendment but I want to make the point the Leader has indicated the commission will be doing that. Why not just add it? I do not need it in my name. By all means put it in the Government's name and then the Government will be looked upon favourably as

being proactive in this space. Just to identify that the commission will, the minister must give that direction to the commission that they will undertake that review just as you already have indicated will happen as a matter of course. It is a reasonable approach and I am requesting that the Leader consider that a small amendment by the Government to that clause would, in effect, do what the member for Nelson has done - she might not agree - in about three large sections of amendment.

I am looking for a simple approach to get the same outcome. That is what I am looking for but I am not going to waste OPC's time, and this Chamber's time, if the Leader on behalf of the Government flatly refuses to accept it but she will make that statement.

Mrs HISCUTT - I think the Government has responded the best we can and we will not be supporting the amendment.

Ms WEBB - Thank you to the members for their contributions and I thank the member for McIntyre too for seeking to find a way through that. If I could clarify a couple of things about why I have taken the approach I have taken, the reality about the Social and Economic Impact Studies (SEIS) is that it is independent research that is contracted and done once every three years currently, once every five years under this bill.

The way things stand and the way it has stood is that the minister could ask the commission to do a response. That happened in 2008. It has never happened since and no doubt the commission takes a lot of notice of what is in the SEIS and certainly would engage with it but nothing publicly is done in terms of a response from the commission under current arrangements.

The intent of my amendment was to ensure that when the SEIS research is done for the benefit of our state so we understand what the picture of gambling is, that the commission look at it and do a response which becomes publicly available. That is the point about it. The Leader has asserted that it takes months and months to do such responses. I dispute that. I do not believe when the first and only time it happened in 2008 that you did take months and months. The commission is resourced. The commission is expert in this space. The commission is anticipating the SEIS that is coming and is well-placed to look at and respond to that. Further to that, this amendment gives a reasonable amount of time for that. If you pay attention to what the amendment actually says, what currently happens is that the SEIS is done, the minister has to table it in parliament within 20 sitting days, so 20 sitting days could elapse before the minister tables the SEIS.

This amendment then says the response from the Commission must then be tabled in Parliament within 20 sitting-days of that.

From the time the SEIS arrives and becomes available, public and available to the commission, there are 40 sitting days before the commission's response would be tabled in this place: I think 40 sitting days if we start to count it up, knowing we would typically have three in a sitting week. That is a lot of sitting weeks. That gives a duration of time that could and is likely to be months available as the potential maximum time to table this response in parliament. Then it gives even longer for the minister to table the minister's response to both the SEIS and the commission's response. This could easily be a duration of half a year of time which is more than enough for that to occur. Forty sitting days is a long time and all members

here would be well aware of that so to counter the misleading claim from the Government that this would put undue time pressure, I do not believe it does.

Yes, the Commission can already provide advice on the SEIS, if they are asked to do so, by the minister. The minister does not currently choose to do that - or has not.

I believe it is a return on public investment to see our independent expert commission make that response in relation to the data that we have spent good taxpayer money having collected about the picture of gambling in the state. This is not unreasonable. I appreciate the member for McIntyre's comments that it seems long winded in an amendment but I hope I have explained why. It lays out those steps to make it clear that certain things do become public within reasonable time frames through the accountable mechanism of our parliament.

That is my argument for this request for amendment. If there were any other questions, I have another call, so I am happy to answer or clarify any points on it that other members may raise.

Ms RATTRAY - I believe this is my final call and I am going to use it to ask the Leader, to give the House an assurance that the Commission will undertake a review.

I am sure the minister is somewhere. If he is not he should be because this is important. In the past I have seen ministers sit in the back of the Chamber, particularly while an important bill is going through. If there is a need to be flexible around some of the requests that members make through a process, they are there to give the Leader advice.

I know it is difficult for the Leader to give undertakings on behalf of ministers. Again, she had this role and I feel sure that somebody can make that call: an undertaking that the Commission will undertake that review and be made a public document.

Mrs HISCUTT - Just to clarify, the Commission can already review and provide advice in relation to the findings of the SEIS if directed or desired. Therefore, we are not supportive of this amendment.

Ms Rattray - But an undertaking?

Mrs HISCUTT - I am not the minister.

Dr SEIDEL - I think that is the difference between what a commission 'can' do and what a commission 'must' do. The whole point of having this debate is to create legislative certainty, so if the Government is willing to put on the record an undertaking in line with what the member for McIntyre said, why do we not take this extra step and say, 'Let us create legislative certainty'.

Ms Rattray - I do not think I got an undertaking.

Dr SEIDEL - No, you did not, but once we add it for good reasons, we should consider this. Otherwise, what is the point? Legislative certainty, according to the objects of this act. It is entirely reasonable not to feel rushed now because it is entirely reasonable to report progress, draft an amendment and get it done. It would have broad support of this House. Why? Because it makes sense.

Mr VALENTINE - I absolutely support that. As I said before -

Madam CHAIR - Just on a point of technicality. The member for Nelson would need to withdraw her amendment to enable a different amendment to be put, or it gets voted down. Then you can report progress or postpone the clause. We cannot put another question before the Chair at the minute.

Mr VALENTINE - I am not sure what the member for Nelson is wanting to do.

Ms Webb - What are you suggesting?

Mr VALENTINE - I am supporting the statement that has just been made by the member for Huon; that there is a benefit in creating the legislative certainty. That may well be through a re-drafted amendment but you would have to withdraw your amendment.

Madam CHAIR - The question is that the amendment be agreed to.

The Council divided -

AYES 6	**NOES 7**
Ms Armitage (Teller)	Mr Duigan
Mr Gaffney	Mrs Hiscutt
Ms Rattray	Ms Howlett
Dr Seidel	Ms Lovell (Teller)
Mr Valentine	Ms Palmer
Ms Webb	Ms Siejka
	Mr Willie

Amendment negatived.

Clause 26 agreed to.

Clause 27 agreed to.

Clause 28 -
Section 172A amended (Infringement notices)

Ms WEBB - I have some questions on clause 28. I note that it is amending the principal act to allow not just police officers but also authorised persons or inspectors to issue infringement notices. I seek some clarification about that.

Under the current arrangement, it appears just police officers are able issue infringement notices. I seek to understand what that has currently encompassed as a matter of course, then the rationale for the change that is proposed in this amendment clause, and why we need to expand in that way?

My next question is, in allowing that authorised person or inspectors can issue infringements, how many inspectors does that currently apply to? Looking ahead under the new model, how many inspectors would be authorised to do that in this way? Regarding

'authorised person', who might that be? Other than an inspector, who might be captured in that description of an authorised person? It probably is in the act, but I would like to understand it better. Regarding the explanation of the rationale for this, I seek to understand more about what anticipated needs this is being done to meet under the new model?

Mrs HISCUTT - I will make a start. In line with the increased responsibility that will be imposed on venue operators under the individual venue-operator model, it is considered appropriate for gaming inspectors to have the power to issue infringement notices for minor offences. The offences that infringement notices can be issued for are listed in the Gaming Control (Infringement Notices) Regulations. There will be a review; however, indicatively some of the infringements that inspectors can issue might be gaming and related activities prohibited in certain circumstances, like wagering in a public place. It could be offences by venue operators in respect of minors. It could be prohibition on accepting wagers of minors. Venue operators must erect warning signs. There are also offences relating to inspectors. All these have penalty units associated with them. I will seek some more advice.

There are currently 16 inspectors, divided between the north and the south. This is expected to increase, indicatively by three or four. The rationale is to ensure that minor offences can be dealt with without having to use police and by trained inspectors. 'Authorised persons' means a commissioner, an inspector or person appointed by the commission.

Dr SEIDEL - It is quite an important clause. If you are increasing compliance now, we are employing more people, what is the cost of employing more people? What is the modelling behind it? The second question is how many infringement notices are we issuing now and how many infringement notices are you anticipating to issue once legislation has been passed and is in place? Do you consider this to be very much stable or do you consider this to be increasing? Do you consider that we have fewer infringement notices under the new legislation compared to what we currently have?

Mrs HISCUTT - I will seek more advice from my advisers. However, the information you are asking about numbers is a policing issue. We do not have those figures with us today with regard to this bill but we may be able to provide some more information with some of your other questions. I will seek some advice.

We do not expect more infringements to be issued but it is more efficient if there are more people there to do it. In the 2023-24 budget there is an allocation of $560 000 to cover any extra expenses with this.

Ms WEBB - That $560 000 that is allocated in the budget we have already been told is being utilised for the implementation of this new scheme and the staffing capacity that is required for the implementation process, leading through, I presume, to that 1 July 2023 date. Is the Government saying that, past that date once the scheme is implemented, that the $560 000 will remain in the budget as additional resourcing to the Liquor and Gaming Branch to be directed to inspectors to undertake this role? If so, how many inspectors is that? What will the total be now compared to when we are in the new model and we have what will be regarded as a full complement of inspectors then? Do you want me to repeat that or was that clearly stated?

I understand from the Leader's response to the member for Huon, we will have more inspectors available to undertake the issuing of infringement notices but it is not anticipated that more infringement notices will be issued than are being currently issued? Correct me if I

am misinterpreting what was said by the Leader in response to that but that is what I heard. Could you confirm that? Essentially, we are expecting to issue the same number of infringement notices that are currently being issued by police officers but through our inspector system instead.

My further question: we spoke earlier in this debate about inspectors doing an annual inspection of a venue. Is that one annual inspection of a venue by an inspector the only circumstance in which that inspector may issue an infringement notice if they were to discover something amiss or a noncompliance issue? If that is not the only circumstance, could you describe the other circumstances in which these infringement notices might be issued so we can understand fully what that would look like under the new regime? Is that question clearly stated?

Mrs HISCUTT - Yes. I am getting some advice on that but the efficiencies will be created by more inspectors. I think what the member for Nelson is asking is probably things as they are at the moment, will continue as normal, but there will be more efficiencies by the budget allocation that is going to be there to implement what we want doing.

There is some more advice coming.

There are additional resources in the current year, and in 2022-23. The $560 000 is the 2023-24 budget only. Out year budgets will be set following further analysis where there is expected to be a similar quantum of the equivalent of three to four inspectors.

I think your other question was about the total budget, and we are having a look at that one. The total budget is combined Liquor and Gaming inspectors, so it is difficult to cut out just the Gaming. Inspectors will not just issue notices at a minimum annual inspection but also respond to complaints and follow up inspections so will issue infringements when and if required.

Clause 28 agreed to.

Clause 29 -
Schedule 5 amended (Further transitional and savings provisions)

Ms WEBB - Madam Chair, I have amendments to move in my name on this clause, and I would like to deal with it in two separate blocks. The first and second one first, then the third and fourth separately.

Madam CHAIR - That is fine.

Ms WEBB - To read in the first and second amendments that we will deal with first:

First amendment
Page 39, proposed new Part 7 of Schedule 5, clause 5, subclause (2), paragraph (a).

Leave out 'section 36(5), (5A), (5B), (6), (6A) and (6B)'.

Insert instead 'section 36(3)(b), (5), (5A) and (5B)'.

Second amendment
Same page, same proposed new Part, same clause, same subclause, paragraph (c).

Leave out 'section 38(1)(b) and (c)'.

Insert instead 'section 38(1)(b)'.

Those two amendments are the first ones I would like to deal with. Members will note that this subsection of the bill and this part that we are looking at includes a range of exclusions. It excludes a number of requirements for current licence holders who are transitioning to the new scheme. The amendments that I am proposing to request remove some of those exclusions.

Let us talk about the first and second one that I have just read. The changes that I am proposing to make to remove sections (6), (6A) and (6B) in that first instance and putting in 36(3)(b) in clause 29 has the effect of applying the community interest test process to existing licence holders when they are applying for their venue licences under the new scheme. It stops them from being excluded from that. Similarly, the second amendment, which removes section 38(1)(c), also allows for the community interest test to be applied when the applications are made for venue licences under this new scheme.

I know this gets very complicated if members were really digging in and trying to think their way through these amendments that I am proposing. This clause 29 references clauses 36 and 38 in the principal act but those sections in the principal act are also amended later on in this bill in sections 58, which is on page 84 and section 60, which is on page 87. I recognise it is complex in that clause 29 is referring to other changes made later in the bill and the amendment I am proposing also refers to those later changes too. So there are layers here.

To put it very simply, the intent I am trying to give effect to is that the community interest test would be applied at the time that venues are seeking to get a venue licence under the new model and transition to that new scheme. I will speak briefly about that.

I believe this takes this opportunity, at the end of one model and at the beginning of another model, to do something that we never did in the first instance, which was allow the community to have something of a say in relation to the presence of poker machines in their local area. We recognised in 2016 that it was appropriate for the community to do that and that although we had not done it before then, we wanted to introduce a way for it to happen. That is when the community interest test was put into this act. It was not applied retrospectively at that time. We were in the middle of licensing periods and it would not have been right at that time to apply that test to the existing, single, overarching licence and then the venues who sat underneath that.

When we put the community interest test in here in 2016, we allowed then for any new venues and new licences to have that applied. So, really, I am taking the intent and the spirit of the community interest test and as well as taking the opportunity presented by a change of model, the end of a licence period and beginnings of new licences, to apply that which we believed to be appropriate and right in 2016 - the opportunity for a community to have a say.

I believe that it meets the objects of this act in terms of the protect element of those objects. I believe that it also is in the spirit of the joint select committee and its findings and recommendations in 2016-17 when that significant consultation process with the community occurred. Many were very keen for a community interest test and arrangements around that to

be broadly applied. That joint select committee took pains to mention the value of allowing communities to have a say and the value of ultimately reducing EGMs in the community. That is not necessarily what this is about; it is just about respect for the community and their rights to have a say in what exists and what is licensed within their community.

It is called for by external stakeholders in relation to this bill, including TasCOSS, Anglicare and others. In that spirit I move the first and second amendments on this clause in an attempt to give voice to that and allow for communities to have a say.

Mrs HISCUTT - I note that the OPC spent over 60 hours helping the member for Nelson putting forward her amendments.

Needless to say, the Government will be opposing this amendment. This was a policy decision at the time. These provisions were excluded as the section relates to existing venues, not new venues, that are operated by existing licensed premises gaming licence holders. These premises have already been assessed by the commission. As venues already operate EGMs, the existing community interest test requirement in the act would not apply to those applications. These venues and licence holders have already been subject to advertising and objection requirements. The commission has monitored these venues over time to ensure that they operate correctly. They seem to be doing a very good job at that. We will be opposing this amendment.

Mr VALENTINE - I think it is really important that as with any facility like this that could well be perceived by the community as causing harm to their community, there is the opportunity to revisit it.

To be quite honest, it may well be that these venues never undergo a community interest test, ever. I think we need to be able to provide this opportunity at this point in time, given the fact that it is going from one system to another. I really think that it is important that that happens for the sake of the community. After having been in place for such a period of time as it now has been for these venues that are already operating, that needs to be an opportunity to at least pause, do the community interest test and see what happens in that regard. There needs to be that opportunity. I think the community deserves that. They are certainly calling for it and I think they deserve it.

Ms WEBB - I just respond briefly to that. Thank you to the member for Hobart for his contribution and support of the amendment. I agree, this is our only opportunity to ever have the community interest test applied to venues that currently have poker machines. Once this opportunity passes, we will never have it again under the way this bill is structured.

In terms of the Leader's response that they have already been assessed by the commission, the reality is that that assessment by the commission is on very bare bones in whether they are able to run their business and comply with very basic arrangements around the provision of those services. They have never been through a community interest test, ever.

We have never tested their social licence or provided the community with an opportunity to have a say in the arrangements around their licensing. That has not happened. The fact of the matter is the community interest is not about whether they are operating correctly, as the Leader described. It is not about that; that is a compliance matter that the commission is also responsible for assessing. But the community interest test is about opportunity for the

community to be able to have a say and make their views heard as part of a process of endorsing licences for venues.

This amendment gives effect to that. It is the only opportunity we have when we are at the end of a licence period in the current arrangement and before we embark on a new one. It is the only opportunity to give the community that chance, and for venues to be able to seek and demonstrate their social licence to operate in the way that they do through that; which if they have confidence in that social licence, they would welcome. If there was confidence that the community recognised the value of that business and its social licence to operate as it does, then that community interest test should be no problem whatsoever. I encourage members to take this opportunity as the only opportunity to assist our communities to have a say.

Ms RATTRAY - My questions will be to the member who has proposed the amendments.

Can you walk me through how you see a community interest test unfolding in a community, when there will obviously be those for and those against; that is what we see through this whole debate? If a community decides there are too many EGMs in a particular area, how is the compensation for those venues worked out and who has the responsibility for that?

It is worth having a debate about that at this time, because I know that communities have grappled with the issue about who makes that decision; and then the overarching question about who pays. At the end of the day, a venue is not going to relinquish part of their business at the request of a majority of a community, without wanting some sort of compensation for it. I ask the member to address her mind to that, and put something on the public record.

Madam CHAIR - Remember, the member for Nelson only has one call left, so if anyone else has other questions for the member for Nelson about the operation of these proposed amendments, you need to do it before she speaks next.

Ms WEBB - Thank you to the member for McIntyre for that question. Regarding the process, the act has the community interest test process already defined. We have that as it applies to new applications, and as the member is likely aware, it is the commission which undertakes that and makes that determination.

Ms Rattray - With the community input into that?

Ms WEBB - Absolutely; but it is the commission, as the independent entity, that has the responsibility for undertaking the process and then making that determination. This amendment makes no change to that, or where that responsibility lies, or what that process looks like. It is as it is legislated now.

The other part of the question you were asking was about the impact it might have on businesses. The reality is, at 30 June 2023 as we come to end of this licence period, that is a natural point at which there is no sovereign risk. The licence period comes to an end for current arrangements. Changes that are made then incur no compensation requirement at all, because it is the end of one arrangement and the end of that contract before we begin another one on 1 July 2023. It is not for me to anticipate what any particular community might do in terms of engaging with a community interest test and through the legislative process that the commission would undertake. I do not know what determination the commission would make

as a result of undertaking those community interest tests and, therefore, what the flow-on effect to our business may be.

I am saying that from the legislation and regulatory aspect we have already decided, as a community and a as a parliament, that it is appropriate that communities have a say when we licence new venues. We are about to embark on a whole series of new licences under this new model, so this is our chance to apply this in a way we will never have a chance to apply again. From my point of view, this is on behalf of the community and to give effect to the right of the community to play that role that we have already decided it is appropriate for them to play, when it comes to this product and its presence in their community. That is my answer; it may not be as fulsome as you may have wished.

Ms Rattray - I thank the member for putting that on the public record, because it is something that has been discussed through this debate.

Madam CHAIR - The question is that the amendments be agreed to.

The Committee divided -

AYES 4	**NOES 9**
Mr Gaffney (Teller)	Ms Armitage
Dr Seidel	Mr Duigan
Mr Valentine	Mrs Hiscutt
Ms Webb	Ms Howlett (Teller)
	Ms Lovell
	Ms Palmer
	Ms Rattray
	Ms Siejka
	Mr Willie

Amendments negatived.

Madam CHAIR - Do you have more amendments?

Ms WEBB - I have more amendments but I am happy for questions to be asked first.

Madam CHAIR - You go with your amendments and we will deal with the amendments. Either way, you still have the call.

Mrs Hiscutt - I forgot the member had two more amendments.

Ms WEBB - I am excited about these two amendments. They are contingent on new clause M. At this point, I will read the amendments in, and then speak to new clause M.

Madam Chair, I move -

Third amendment

That clause 29, proposed new Part 7 of Schedule 5, clause 5(2)(d)

Leave out, "and (g).".

Insert instead, "and (g);"

Fourth Amendment
Same page, same proposed new Part, same clause, same subclause after paragraph (d)

Insert the following paragraph:

(e) section 42(2)(a)(iii).

These two amendments are subject to new clause M being supported, and what I will move to do is to speak about new clause M, because that is how we have determined to do this. But I prosecute the case of a new clause M now and depending on the outcome we will then know how we are going to vote on the amendment I am proposing, which is contingent on it.

I hope members have notes available to them, but I am excited to explain new clause M.

What I am seeking to do with new clause M is to, in a new way that I hope people can bring fresh thinking to and consideration of, thinking how to give effect to the spirit of the idea of giving communities some say in the presence of poker machines in their local area. To do so in a way that brings no detriment at all to anybody, including the businesses involved currently in that industry. I will talk you through how that this new clause proposes that to work and why I think it is a wonderful opportunity for us to add something to this bill that gives effect to some clear intents of the joint select committee back in 2016-17.

That committee, you will remember, had a number of findings and recommendations that related to two things. One was reducing the number of EGMs or poker machines in the state, gradually over time and having communities have a say in the present.

New clause M goes to both those with no detriment to anyone and this is how it would work.

What the clause does is it allows the commission to undertake a process to determine a maximum number of gaming machine authorities for a local government area. That determination could be made either at the request of the local council of that LGA or on the commission's own initiative.

There are two ways that could come about where that determination would be made. It sets out in making that determination, the commission would consult with the local community and the relevant council.

What is very clear with this proposal is that it does not have an effect on the current number of poker machines in communities. It does not impact at all on the structural transition that is occurring in this bill, where we have current venues transitioning to their venue licences on 1 July 2023. It does not impact and come into play at that time and it does not disadvantage anyone.

It means if a local council asks the commission to undertake this process to determine a maximum number of EGMs for their local government area and the commission made that

determination through the process of consulting with the local community and the relevant council - the local community would mean the businesses as well as the community members - and came up with a maximum number for that local government area.

What that number then does is it sits there and it only comes into play in future events when there is any question about poker machines in that local area. For example, if a new venue did want to apply for a licence in that local government area, that determination of a maximum number would come into consideration then, in the decision about whether to grant that new venue licence.

Or, if a venue was under this new arrangement - which we will get to at some point in this bill - and had the ability to potentially transfer poker machines between venues. If there was to be a transfer proposition the commission was to consider, if there has been this maximum number determined for that community, it would have a bearing on whether transfers into the area could occur. If a transfer was to put the number above that then it would not be allowed. I am trying to think of the other ways poker machines might enter a community - transfer, new venues - I think there is one other example and will come back to that.

What would happen is that determined maximum number would sit there and if, for example, venues were to relinquish their poker machines or to close down, if it had been above the maximum number of poker machines in that local area it may slowly drop then. It allows for it to drop below the maximum determined by the commission and over time, through natural attrition and ensuring more poker machines are not moved in above the number, the number of in a local community may drop below the number determined as being the maximum appropriate by the commission.

The other benefit is that it provides an opportunity for the current or any future state government to have a think about ways it may want to incentivise the reduction of poker machines in local communities. For example, if the council had approached the commission to undergo this process and have a maximum number of poker machines set for their local community and if the state government wanted to assist with incentivising numbers to come down below that number, it could provide initiatives, incentives or programs whereby venues in that area may wish to relinquish poker machines or move away from that business model. That would assist in bring the local numbers down underneath whatever the maximum number had been determined. It may well be that the commission, if they undertook this process, might determine a maximum number that was already higher than what was there. That could happen, but the community would have had a chance to have had a say.

That is quite a lot for people to absorb and I am happy to answer questions. I hope I have explained it in such a way that makes it clear this is to give effect to a mechanism where a community can have a say about what their aspiration is about a maximum number of poker machines. It does not impact on any correct businesses, or any current numbers of poker machines in that local community. It does set a consideration for future movements of poker machines in and out of that community. It does come into play in the future and the idea being it would assist with naturally bringing poker machine numbers down, or at least not having them increase, above what had been determined by the commission in conjunction with the local community. It provides an opportunity for state governments to incentivise that to happen if they should so wish.

It is a win, win, win. It is not an impingement on the industry in any sense at the outset, or in no way penalises them now. It empowers local government and communities to be able to express an aspiration about numbers of poker machines in their local communities. It empowers the commission to be the one who does that process and makes the determination - our independent, expert body who already consider such things in other circumstances, like the community interest test - and it allows opportunities for very positive policymaking initiatives down the track, for future governments, if they wanted to make use of that to assist in bringing down numbers of poker machines in the community. As we know from the joint select committee, this was a really clearly articulated wish.

I will leave my first speak at that and I am certainly happy to clarify further, noting we are discussing this new clause now because the amendment that is the question at hand relies on it.

Dr SEIDEL - I thank the member for Nelson for the amendment. In terms of clarification, the proposed new clause specifically deals with gaming machines. Am I right in thinking that the new clause would exclude gaming equipment such as other automated games?

Mrs HISCUTT - The Government will be opposing this amendment based on the simple fact that it is not an appropriate role for local government to be involved in setting the LGA tax on EGM authorities. It would introduce local government to an area of policy it is not familiar with. While local government may have opinions that does not mean it is established or equipped to be involved in making such determinations. The Government, as the state-based power, and the independent Tasmanian Liquor and Gaming Commission are the most appropriate bodies to make such determinations. This should continue to be the case.

To seek to shift the jurisdiction on this is not considered appropriate. Under the future model the Tasmanian Liquor and Gaming Commission will have the power to make a determination with regard to the allocation of EGM authorities. Regulations will be established that provide for the commission to institute a process for determining the suitability between two or more applicants for EGM authorities. If it is in the community interest, the minister will have the power to issue a direction to the commission in relation to the future issuing of EGM authorities. For example, this may include a direction not to issue EGM authorities in low socio-economic areas or not to issue any surplus EGM authorities. Further, the community interest test already gives an opportunity for input into new venues. It should also be remembered that there are already venue caps and a statewide cap on EGM numbers.

Mr VALENTINE - I think this amendment has a lot of merit. When you read the amendment, it is quite clear that the commission controls - on the new clause M. In that amendment it is the commission that actually makes this happen. The commission may from time to time determine for a municipal area the maximum number of gaming machine authorities for that municipal area. The commission may make a determination under subsection (1) on its own initiative or on the application of the council of the relevant municipal area.

The commission just takes into account what the local government area or municipality is actually telling them. They may have very good arguments as to why they would not want to see a proliferation of gaming machines. It may well be it is empowering the community. It is not giving the power to local government to do it. It is actually the commission that is doing it. That is the important point to make here. As (3) says, 'Before making a determination on

subsection (1), the Commission is to consult with the community and with the council of the relevant municipal area'.

It is simply providing the commission with the opportunity to assess community feeling about this. Why wouldn't the commission want to do that? Community interest tests are undertaken. It is no different really, in a sense. It just gives the opportunity for a municipal area to actually express their opinion to the commission and for the commission to weigh that in to the mix. There is a lot of benefit with this particular amendment. I support it, I absolutely support it.

Mrs HISCUTT - Local government can already make submissions to the commission on new venues under the community interest test framework anyway.

Ms WEBB - That is exactly right, Leader, local government is consulted under the community interest test currently, which is why there is nothing inappropriate with having the local government consulted through this proposed new process too. As the member for Hobart said, it in no way gives the power to local government to make decisions, much as the Leader misconstrued that in her first contribution, mischaracterised what this new clause is actually proposing.

The new clause, as the member for Hobart read out, simply says that the commission may be the one to make the determination. That could be at the behest, on the request of the local council. It might be of the commission's own initiative. We know there is the community interest test to apply to new venues. We also know that has never been applied because we do not have new venues coming forward very often. This in no way interrupts that if it were to come into play at some stage. This is complementary. It is aligned in its intent and where it sits - decision-making and powers - because it sits with the commission, just like we do with the community interest test. New clause M proposes the basic process that the member for Hobart read in through (1), (2) and (3). What other members would find is if we were to support this new clause, there are other amendments that I have as part of a suite of amendments that then have bearing on this.

That comes into play to say what effect it would have for the commission to make a determination about a maximum number of EGMs for a community. That is where some of those other matters that I spoke about come into play. If the commission were to make a determination about a maximum number for a particular LGA, there is no detriment to any existing venue and any existing number of poker machines in that community. It does not mean anything immediately happens. It becomes relevant when there are future propositions of moving poker machines in and out of that area. It only becomes relevant for future movement of poker machines.

If a new venue were to be coming into operation, that maximum number would be brought to bear in consideration of that. If machines were looking to be transferred between venues of common ownership into that community, the maximum number would become a relevant factor to that determination by the commission. If a venue in that local government area was seeking to increase the number of EGMs that it had that was then going to exceed - or put the community above that number, or keep them above that number - it would come into play then. It comes into play in future instances when there are proposed movements of poker machines. It has no detriment to any current business with their current number of poker machines at all.

It is a real shame if we do not give this a good thought about it being a positive opportunity. The joint select committee explicitly in their findings and recommendations -

Madam CHAIR - Order. You are repeating information you have already -

Ms WEBB - The first four recommendations all related to -

Madam CHAIR - Order, I am speaking. You have already referred to the joint select committee's recommendations so if you could move on.

Ms WEBB - I believe that this amendment puts the authority for its effect in the right spot, consistent with other authorities for the commission. It provides an opportunity to have community aspiration acknowledged and community views acknowledged. It does not put any detriment on any current business and it is a real opportunity for us to add something to this bill beyond the scope of what was there without interrupting any of the key features of the structural changes, without interrupting any of the other processes that are going on in the bill and certainly aligned with the objects of the act.

I encourage members to look at this as a good opportunity for us to add something positive to this bill on behalf of our communities.

Ms Rattray - While the Leader is on her feet could she re-read that first response that you gave to the member about the commission already having the powers?

Mrs HISCUTT - I will look for that information. As the Government has already suggested, there are powers associated with the EGM authorities for a minister to restrict the allocation of new EGMs by area. This is a better option, as low SEIS areas, for example, do not always map to LGAs so it is not clear why this amendment adds value over existing powers. We will not be supporting the amendment and to reiterate, under the future model, the Tasmanian Liquor and Gaming Commission will have the power to make a determination with regard to the allocation of EGM authorities.

Is that what you are looking for? Do you want me to read it all?

Ms Rattray - Yes.

Mrs HISCUTT - Regulations will be established that provide for the commission to institute a process for determining the suitability between two or more applicants for EGM authorities. If it is in the community's interest, the minister will have the power to issue a direction to the commission in relation to the future issuing of EGM authorities. For example, it may include a direction not to issue EGM authorities in low socio-economic areas or not to issue any surplus EGM authorities.

Ms WEBB - Let us be really clear what the Leader just read out. It is identifying the process in this bill, which is that the minister has the power and authority if he or she should wish to give a direction to the commission about some matters relating to EGM movement in or out of communities.

It is a discretion of the minister. I believe that is not an appropriate spot to locate that decision about what is in the community interest for a particular area, and whether the minister

is inclined to issue a direction in relation to it. We can look for a more arms-length and independent way for these matters to be considered, rather than if they are just at the discretion of the minister. The minister has the power to issue a direction to the commission on all manner of things. Most of the time, the minister does not issue direction on many things that people out there in the community might like the minister to issue directions on.

We spoke about one just a short while ago in relation to responses to the SEIS. The minister has not issued a direction to the commission to make that since 2008. Therefore, we know ministerial direction comes and goes and is on a whim.

This is about is putting in place a robust, clear and accountable way for the commission, as an independent entity, to be able, at the request of a local community and through their local council, to have a process which says, 'What will be the maximum appropriate number of EGMs for this community?', and to define that number. As I said, that number does not then penalise any existing business in any way.

There is no downside to this, other than to have a reference for future decisions about movements of EGMs and to allow future governments the opportunity to assist with reducing numbers through incentive schemes or the like. This is about putting decision-making and the power to make these determinations with the commission, not at the discretion of the minister, so it can be consistent and accountable. It is a wonderful opportunity, with no downsides, to give communities a say and to have an explicit part of this act that gives effect to that. It cannot be seen to be a negative for any of the other intents of the act or the structural changes, and is of no disbenefit to existing businesses. I encourage members to support the inclusion of new clause M. Of course, the question we are on is a clause that is contingent on new clause M, so voting for this amendment on this clause is to assist with giving effect to new clause M in the bill. My understanding is we are voting on the third and fourth amendment to clause 29. Those two amendments to clause 29 are about giving effect to new clause M.

Mrs HISCUTT - For clarity, Madam Chair, in the absence of a ministerial direction, it will be the commission that decides on any surplus EGM allocations. I wanted to clarify that.

Madam CHAIR - The question is that the amendments be agreed to.

The Committee divided -

AYES 4	**NOES 9**
Mr Gaffney (Teller)	Ms Armitage
Dr Seidel	Mr Duigan
Mr Valentine	Mrs Hiscutt
Ms Webb	Ms Howlett
	Ms Lovell (Teller)
	Ms Palmer
	Ms Rattray
	Ms Siejka
	Mr Willie

Amendments negatived.

Ms RATTRAY - Madam Chair, regarding page 34, clause 29, new Part 7, section 1 - Interpretation, it gives the interpretation of a venue licence:

> ***venue licence*** means a licence of that name issued under the new legislative scheme.

Licences for hotels, for example, always have a licensee. When you go to the door of a venue, the licensee's name is over the front door; there always has to be a person's name. I am interested in how the venue licence and its name, how that marries up with the licensee, whether it be a hotel or a club, or whatever, where there are EGMs and gaming opportunities. Can that be walked through - whether it is just the venue that is required to have the name, or whether a person has to take that responsibility? As we know, licensees move on and venue names change when they change hands.

Madam CHAIR - Did the Leader want to respond to that first?

Mrs HISCUTT - I am just seeking advice.

This particular section the member for McIntyre is talking about just defines for the transitional period. So, after the transitional period at the end of June 2023 that could be an individual or a company or something like that. It is particularly for the transitional period.

Ms RATTRAY - So, it can be anything? A person, a company, a licensee, an owner? We know that owners of venues are not necessarily the licensees.

How messy is this going to get? If you have a myriad of ways of identifying a venue, I think that this could be a dog's breakfast. I am interested in how this is going to work in practice. We would like to think that there be some consistency around how a licence is identified, or the licenced venue is identified.

Mrs HISCUTT - In the principal act as it is, it can be in an individual or a company name or a person. This is just the transitional period because it is - when it is finished, somebody is going to have to do that. It will go back to the principal act, which clearly says that it can be an individual or a company name.

Ms Rattray - But it will not be the name of the venue itself.

Mrs HISCUTT - It will be the holder of the licence.

Ms Rattray - That is a bit deceptive as it says 'venue licence'.

Madam CHAIR - Order.

Ms WEBB - I have a small question in regard to part 4 of clause 29 on page 38, which is 'Continuation of licensed premises gaming licence during lead-up period'.

I want to clarify that I understand that this is in relation to a venue that is applying for a new licence under the new scheme, and its current licence expires at some point in the lead-up period which is the 12 months prior to the changeover.

I read this to say that the conditions of the licence extend through to the changeover when the new licence comes into effect. I want to understand if there are any implications in terms of fees or other financial matters that need to be taken into consideration if the licence had expired in that lead-up period and was being extended, potentially up to 12 months or thereabouts towards the crossover.

Mrs HISCUTT - Regulations are being drafted as we speak. The annual fees will continue as normal. There will be no financial penalty to any entity that has to reapply during that period.

Ms WEBB - I was not thinking about a financial penalty. I was wondering whether some element of an annual fee would apply if, for example, the current licence of one of the venues expired eleven and a half months out from the changeover date, so just within the lead-up period. Do they pay an annual fee for that period? Are they liable for a fee?

Given that this subclause says that their conditions continue through to the changeover, I want to understand what the financial arrangement is. Is there a part payment of an annual fee?

Mrs HISCUTT - They will pay their licence fee and they will get a pro rata refund if it goes beyond that period of time.

Clause 29 agreed to.

Clause 30 agreed to.

Clause 31 -
Section 38 amended (Matters to be considered in determining application)

Ms WEBB - I have a question around this clause so that I can understand its implications.

My understanding is that clause 31 is amending clause 38 of the principal act, which is matters to be considered in determining an application. I take this to be the application for the venue licence and it is adding in another matter to be taken into consideration in that process, is how I read it by inserting paragraph (bb). The insertion reads:

> (bb) the applicant has or is able to obtain financial resources that are adequate to ensure the financial viability of the operation of gaming machines or the conduct of keno, or both; and

Under the new scheme, individual venues will have their own licence and have financial responsibilities beyond those that they have now, under current arrangements. I take this to mean that in determining whether it is appropriate to grant them a licence, the commission has to make an assessment of their financial viability to meet the requirements under the new venue licensing system.

What I would like to understand better is how that assessment will be made. I do not believe this type of assessment has been required before of the commission. It is different from assessments about good character and compliance and all that sort of thing.

Are we expecting there to be instances in which assessments will be made that current venues may not be deemed to be financially viable and able to undertake what is required of them in the new venue licensing model?

Mrs HISCUTT - The commission does make some financial analysis of a venue's capacity already but this enhances it to meet the increased requirements. A consultant financial adviser will draw up an appropriate framework for assessment and undertake the financial analysis for the commission. If a venue does not meet the financial requirement they will not be granted a licence.

Ms Webb - While the Leader is on her feet, the second part of the question that I put was, is it anticipated that there would be any venues who may be at risk of being deemed not financially viable at this point in time?

Mrs HISCUTT - Just noting that venues will have additional revenue through the changes here, it is a bit of crystal-balling because we do not know the financial circumstances of all those who will progress through this.

Clause 31 agreed to.

Clause 32 agreed to.

Clause 33 -
Section 2A inserted

Dr SEIDEL - Madam Chair, I made reference to clause 33 in my second reading speech. At the time I specifically asked the Government what harm reduction measures were to be put in place and what the harm reduction measures were that the Government would consider. At the time, the Government said the answer would be provided and read into *Hansard*. I checked *Hansard* and I did not see any answers to the question I had at the time.

So again quite specifically, I want to ask what harm minimisation measures are being considered by the Government? We already talked about card-based play and we talked about the reference to investigate patron admission but what specific measures are in the legislation?

Mrs HISCUTT - I will seek some advice. I do apologise for that, member for Huon, because we went through *Hansard* and picked out questions so I do apologise for missing that one.

Dr Seidel - It was a late night.

Mrs HISCUTT - There were many questions but I shall seek some advice for this one.

The principal act already provides for harm minimisation, so I will not go through that. The objects of the act can give context to the decision-makers there, but this particular bill increases the CSL and it reduces the cap on gaming machines. There is also the introduction of the card-based ways, and facial recognition is to be investigated. Precommitments are being investigated. They are all being investigated.

Dr SEIDEL - Thank you for allowing me a follow-up question, because the objects of the act are specifically to protect people, not to investigate harm reduction measures or potential options. The options are very clear. It is to protect vulnerable Tasmanians from being harmed by gambling or exploited by gaming operators.

So, does the Government state there is actually nothing in the legislation that is meeting the objects of the act?

Mrs HISCUTT - Within the principal act the power is given to the commission to investigate and take action there as is deemed necessary by the commission. So the objectives are there already and we have added some more in this bill before us.

Dr SEIDEL - Just for the record, the Government actually does not. We are stating the objects of the act in this omnibus amendment bill. They are new and the Leader has made reference to the principal act. There is nothing new in there. So again, the question is why are we having new objects of the act specified in clause 33 and then there is absolutely no follow-up? There is nothing in there. So, it looks to me that this legislation is not fit for purpose because there is nothing legislated what it is set out to be, which is actually quite a shame.

Mrs HISCUTT - Having objects in a principal act provides context to decision-makers. There is nothing more I can add from the Government.

Ms WEBB - I do have amendments on this clause but I am rising to ask questions in the first instance.

Madam CHAIR - You have three calls, including moving your amendments, so I would urge you to move your amendments first. That takes a call.

Ms WEBB - It is in fact the answers to the questions that are relevant to at least one of those amendments.

Madam CHAIR - You will use a call, so you only have two calls left after that, including one for you to move your amendments. Just so you are aware.

Ms WEBB - The questions I have on clause 33 relate to having some more detailed explanation from the Government on some of the terminology that is used in the clause. I would like to understand, in terms of this clause, 2A(b) where it says:

> protect people, particularly people who are vulnerable, from being -
>
> (i) harmed by gambling; or
>
> (ii) exploited by gaming operators; and

Then (c) over the page.

The part I seek greater clarity about relates to the phrasing of, 'particularly people who are vulnerable'. So the object is to protect people in the first instance and then specifically particularly people who are vulnerable. In terms of that being an object of the act, can the Government explain its intent or understanding of what that means, particularly people who

are vulnerable, who are those people and what those vulnerabilities are, so I understand what is encapsulated in that inclusion?

Going to (c) over the page, on page 46, where it reads as another Object of Act -

> (c) ensure that the returns from gambling are shared appropriately (including by being invested in services that support those harmed by, or at risk of harm from, gambling) amongst the gaming industry, consumers and the State.

The two questions I have that relate again to (c) are about definitions and understanding of what is meant by the word 'appropriately', where it says, 'shared appropriately'. If this is an object of the act, we need to be very clear about what is meant by a term such as 'appropriately'. I would like that articulated by the Government on the record.

The other question I had that relates to (c) is, what was behind the Government's decision to shift from its first articulation of this intent back in the first round of consultation and earlier stages of this policy, where the returns were described as being shared appropriately between industry, consumers, the state, and they used the word 'players' there? I am wondering, have we substituted the word 'consumers' for 'players', to clarify that consumers means players, people who are utilising the product?

The other change that happened from the earlier articulation of this intent in the Government's policy documents is it was often referred to - in fact in the Government's second reading speech it was still referred to, as the intent that there would be a sustainable industry as an objective of this reform and this bill. I wonder why, when we are creating objects of the act, if that was something so prominent in the Government's materials put into the public domain about this, including all the way through to the second reading speech on the bill, why that has not appeared, that a sustainable industry is an objective of these reforms.

[4.54 p.m]

Mrs HISCUTT - Madam Chair, I move -

> That the Committee do report progress and seek leave to sit again at a later hour.

There are multiple questions the advisers need to think about. In speaking about what appropriate means, the dictionary says it means suitable or proper in the circumstances. This is not the appropriate time or place, so that would be a fairly relative description of what appropriate means.

Progress reported.

SUSPENSION OF SITTING

[4.55 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I move -

That the sitting be suspended until the ringing of the division bells.

Motion agreed.

Sitting suspended from 4.55 p.m. to 5.16 p.m.

GAMING CONTROL AMENDMENT (FUTURE GAMING MARKET) BILL 2021 (No. 45)

In Committee

Resumed from above.

Clause 33 -
Section 2A inserted

Mrs HISCUTT - The objects of the act, with respect to vulnerable people, the intention is to place particular recognition on persons who are at particular risk of being harmed by gambling. It does not envisage more than that common definition so as not to constrain the work of decision-makers taking account of the objects of the act in their decision-making.

With respect to, 'shared appropriately', that concept encompasses things such as providing returns to industry sufficient to ensure its sustainability into the future; a fair return to consumers, through returns to players. In this case 'consumers' covers the term 'players' that was referred to and, as the Government has said, 'an appropriate return to government', appropriately in this bill through increased returns.

Further, through the debate in the other place, it was agreed that the object include a specific recognition of the returns invested into the community supports, which are doubled through these reforms.

Mr VALENTINE - Just to have greater clarity as to what (c) actually means, on page 46:

> (c) ensure that the returns from gambling are shared appropriately (including by being invested in services that support those harmed by, or at risk of harm from, gambling) amongst the gaming industry, consumers and the State.

Could the Leader clarify exactly what is meant by 'amongst the gaming industry'? Is the return the actual percentage of money that goes back to the gaming industry? Is it through some other investment in the gaming industry? Could the Leader clarify exactly what, 'amongst the gaming industry,' means, including the types of support?

Mrs HISCUTT - It is to be shared amongst the gaming industry, the consumers and the state so the gaming industry can get its share of any profits or revenues.

Mr VALENTINE - I also asked about the types of support for those who have issues with their gambling. What types of support are we talking about?

Mrs HISCUTT - We are talking about the Community Support Levy. That is funding programs such as gambling support programs and other community support programs.

Mr VALENTINE - Gambling support programs? Can we not be a little more specific than that? It seems to me that yes, some will go to service organisations that deliver certain services. I need a little bit more information about exactly what that looks like. I am specifically interested in how much of that ends up going to specific gambling support services as opposed to a sporting organisation?

Providing the Community Support Levy to a sporting organisation is not going to do a thing for people who have a gambling problem. Can we look more closely at the percentages - that might be handled further down - but the percentages associated with the Community Support Levy that are going to go to gambling support as opposed to sporting organisations? Quite clearly, if we have such a problem in community, to my mind, it really needs to be 100 per cent of it, not going outside the gambling industry.

Mrs HISCUTT - The CSL is divided up and at the moment it is being reviewed on what it should be focused on but there are things like telephone support, it goes to telephone support, neighbourhood houses and the like. I hope that explains the direction that it goes into.

Ms WEBB - This is my second call and I am saving my third for amendments to move. I wanted to follow up on the questions I asked in the first call because not very much information was provided in response. I would seek to have a more detailed answer when I re-put these questions in a maybe slightly different form that makes it easier.

In regards to (b) which reads:

> protect people, particularly people who are vulnerable, from being -
>
> (i) harmed by gambling; or
>
> (ii) exploited by gaming operators; …

Then (c) is over the page but I want to focus in on the, 'protect people, particularly people who are vulnerable'.

In your response you said that that means people, persons at particular risk but my question to you was, and remains, what is the Government's understanding of who that is? Who are persons at particular risk? What is meant by that? What is captured by it? My question relates to that and I would like an actual answer this time, rather than just a rearranged, slightly different wording of the statement.

Given that the Government has included it in the objects of this act, how is it understood? What is it understood to mean, 'persons at particular risk' or 'particularly people who are

vulnerable'? Who is that? Who fits into that category? It is important because if we are making a commitment in the objects of this act to protect, not just people broadly, but those people identified in that statement from, for example, being harmed by gambling or exploited by gaming operators, I want to understand what that means. Who are we talking about? That is the first question that I would like an actual answer to.

Perhaps it would help also for our understanding of that being included in the objects of the act, to have the Government point to aspects of the act that give effect to that object. So we might be able to best understand the inclusion of that object if we can be pointed to elements in this act, the principal act or the amendment to the principal act, that actually are an illustration of that, a demonstration of that object, or aligned to it. That is what I would like to see also in the explanation of the statement.

Then to also reiterate because I do not believe that the explanation provided was appropriately detailed. When it comes to (c) where it says:

> ensure that the returns from gambling are shared appropriately … amongst the gaming industry, consumers and the State.

Thank you for the confirmation that consumers includes players but I want to understand better what this means in terms of 'shared appropriately' between those named stakeholders, 'the gaming industry, consumers and the State'. You mentioned that it meant in relation to the gaming industry, that returns were sufficient for that industry to be sustainable. That was part of your answer. I want to understand what the Government means by that industry being sustainable so that we understand what is sufficient to ensure it is sustainable.

Does it mean that those businesses are viable? Does it mean that those businesses achieve a particular level of return, a particular element of profitability that we are in essence guaranteeing them?

Madam CHAIR - Order. We have already dealt with that clause and moved on. You need to focus your questions on this -

Ms WEBB - No, we have not.

Madam CHAIR - The financial sustainability was the one we just dealt with.

Ms WEBB - No. I am looking here at this clause 33 on page 46 subclause (c) there to 2A, the Object of Act, where it says -

Madam CHAIR - I know where you are. We dealt with the sustainability, financial viability of a business under 31.

Ms WEBB - Not in this sense, we did not. We did not. That 31 was -

Madam CHAIR - Order. Focus your questions on clause 33.

Ms WEBB - I am. With all due respect, Madam Chair, that is exactly what I am doing.

Madam CHAIR - Please frame your question.

Ms WEBB - I have asked the question and I will frame it as simply as I possibly can. The Leader provided an answer that, 'shared appropriately with the gaming industry', meant returns that were sufficient for the industry to be sustainable. I would like to understand what that means from the Government's point of view, given it is an object of this act. Does it mean viable, or a particular return or profit margin? I would like to understand what we are guaranteeing the industry in terms of sustainability, and what we are guaranteeing, then, to the other stakeholders, to the state and to consumers.

The Leader also mentioned in her answer, that the share to consumers meant increased returns; but I do not believe that is in the act. I would like to understand what the Leader meant with her answer provided on that element of clause 33(2A)(c). I hope that I would have answers to each of those. They were part of my original questions, but the detail was not provided.

Mrs HISCUTT - I will seek some more advice. However, simply because the member does not happen to like the answers, she cannot keep asking the questions again. I will try to provide a little more clarity. Once it has been answered, it has been answered to the best of the Government's ability. If the member does not like the answer, we have to beg to differ. In the meantime, I will seek some more clarity on some of this for her.

The group of vulnerable people is not intended to be fixed in time. It may vary, but would include persons at risk of addiction to gambling; persons and demographic groups identified in the SEIS reports as being more likely to engage in problem gambling, such as those in lower social and economic areas, those in particular age groups, and so on.

Sections of the act supporting the inserted objects include the exclusions scheme at section 112B; the mandatory code at section 112L; the CLS at section 151; in addition, standards at section 112PA; control procedures at section 137, 137A and 138; and rules at section 91. All have harm minimisation aspects.

The Government has not committed to a specific level of return to industry - merely, that its returns would be at least sufficient to ensure businesses remain sustainable into the future.

Ms WEBB - Madam Chair, I rise to move an amendment.

Madam CHAIR - You need to move all three. You only have one call left.

Ms WEBB - I am not moving one of them.

Madam CHAIR - You are not going to move one at all. My apologies. I thought you were doing it later.

Ms WEBB - I am moving two of the three. Madam Chair, I move the second and the third of the amendments that are there.

Second amendment
Page 46, same proposed new section 2A, paragraph (c).

Leave out "State".

Insert instead "State; and"

Third amendment
Same page, same proposed new section, after paragraph (c).

Insert the following paragraph:

(d) ensure that a public health approach towards gambling harm is taken, including through the investment in services that prevent harm and support those harmed by gambling.

That is a suggested addition to the objects of the act, that brings into play that concept of the public health approach which is regarded as the appropriate approach to dealing with matters of addiction and products that can be associated with addiction. Many stakeholders have called for an explicit reference and acknowledgement of the need for a public health approach to this gambling product. I believe that this adds to the objects of the act in terms of expressing an appropriate foundation from which to be interacting with this regulatory environment. I encourage members to support the amendment as a positive inclusion to the object of the act.

Mrs HISCUTT - The minister has already included an amendment to clause 33, Object of Act, to include in section 2A(c). It says to:

> ensure that the returns from gambling are shared appropriately (including by being invested in services that support those harmed by, or at risk of harm from, gambling) ...

The amended clause already addresses the allocation of returns to services, supporting those at risk or being harmed. The Government will not be supporting the amendment as it is put forward.

Mr VALENTINE - This is exactly the sort of clarification that I was after before when I rose to my feet to find out exactly what supports would be provided. I think that there is nothing to be lost by including this amendment from the member for Nelson.

Even the minister said - in one of the media statements that I saw today; I do not think I am verballing him - he would be prepared to accept some minor amendments. While it is minor in one sense, it is providing some direction. I cannot see anything negative about this amendment; 'ensure that a public health approach' - who would not want that? - 'towards gambling harm is taken, including through the investment in services' - Anglicare, those sorts of services that provide services to people who have an issue with gaming - 'that prevent harm and support those harmed by gambling'.

What can possibly be wrong with that? I think this is an eminently suitable addition to the object of the act, under 2A. It is just adding one extra component to it that gives a little direction. I do not think that the Government, at its heart, would want to see people overtly harmed. Why not take a public health approach? Why not invest in services through the Community Support Levy that will come in as a result of these sorts of gaming venues that are operating out there? We are getting some community support levies from it. Why not focus it in on this? I support the amendment.

Mrs HISCUTT - As I have read into *Hansard* before and I will not read it again, the appropriate place for the expenditure of the funds was put into the regulations.

Ms FORREST - I do not disagree with the member for Hobart's comments. We should be taking a public health approach to the minimisation of harm. A public health or preventive health approach is about illness prevention; it is about prevention of harm. It is about health promotion, wellness promotion. That is what we should be doing in all areas where a person's health and wellbeing could be harmed. We are talking about their health and wellbeing when we talk about this.

I ask the Leader whether the Government would support a different version of this same approach. We have three objects of the act, regardless of whether you agree they are descriptive enough or provide the broadest range. The first talks about being assured that the gambling industry does it properly. The second is about harm minimisation. The third is about sharing the spoils.

After reading through this again and listening to previous comments made by the Leader, I would suggest that a better amendment to achieve this would be to suggest that part (b) of 2A be amended along the lines that a public health approach be taken to protect people, particularly people who are vulnerable to being harmed by gambling or exploitation by gaming operators

That is not a question before the Chair; I understand that. We have another question before the Chair, but I am asking the Leader, would the Government support such an amendment to ensure the public health approach is taken but within the framework of the object of the act that clearly defines harm minimisation? If the Leader gives some indication she is willing to do that, the member would need to withdraw her amendments because they would not be necessary and a new amendment would need to be drafted to insert the words along the lines of a public health approach be taken to protect people and the rest of (b).

If it is not worth my wasting my breath, I will not, but I think it is important we take a public health approach to this. I cannot believe the Government or the Labor Party would be opposed to that. It could be done in a way that does not disrupt the objects of the bill but achieves the same outcome.

Mrs Hiscutt - What do you mean? How would you fit in 'public health approach'?

Ms FORREST - For the Leader's benefit, a public health approach - being chair of the Rural Health committee that particularly looks at public health - if you do not understand the public health approach, what have we been doing for the last two years with COVID-19? We have been preventing illness, we have been putting protections in place to stop people getting COVID-19, to stop people dying from it and to stop people ending up on ventilators in the ICU.

A public health approach is about illness prevention, health promotion and a focus on preventive measures to prevent harm. That is what public health is about. If you are not sure, ask the member for Huon; he will tell you. The member for Nelson clearly knows what public health is. It is about taking an approach that puts the person at the centre, with a preventive framework, with a harm minimisation approach. The member for Huon spoke about this in his contribution to the second reading; about how we manage smoking. That is a public health issue. Vaccination is a public health measure.

That is what we are talking about, using a mechanism that is available to us to prevent harm, prevent ill health, prevent ill mental health, prevent harm to our wellbeing; that is a public health approach. That is the approach we should be taking in relation to gambling harm. It is a harm. It does harm to people's physical, mental and social wellbeing. We should be taking a public health approach and if you do not understand what that is, I am happy to bang on about it for another 15 minutes, but I do not think I need to.

Mrs Hiscutt - I was merely asking how you were going to fit that in an amendment into this. Thanks for the lecture.

Ms FORREST - Just with those words, as I suggested.

Dr SEIDEL - Of course I am going to support the contribution and request by the member for Murchison. Public health is already defined. You do not have to explain what public health means, it is a definition, when we have a Director of Public Health, it is really quite clear what he is actually doing. It could be a very simple, grounded, commonsense, logical and appropriate way to enhance the bill. Surely, it should be in the Government's interest to enhance the bill to ensure that evidence-based, harm reduction approaches are legislated through a public health approach. I would encourage the Government to take the advice and to consider an amendment and to support what the member for Murchison actually outlined in her contribution.

Madam DEPUTY CHAIR - Obviously, we still have the two amendments being put forward by the member for Nelson, so we are waiting for some indication from the Government whether it is a worthwhile exercise to have a new amendment drawn. Obviously, the member for Nelson would need to withdraw hers as well. The ball is in the court of the Leader.

Mrs HISCUTT - It is very hard without having an amendment in front of the Government for consideration. What members decide to do is up to members, but without something to consider -

Madam DEPUTY CHAIR - As all members know an amendment needs to be put in writing, if somebody would like to put an amendment, until the member for Huon -

Ms Forrest - You have still got two calls on the amendment.

Madam DEPUTY CHAIR - Just some advice to members is the member for Nelson could press on with her amendment and there could be a vote on that. There is nothing to stop another member putting the amendment, as has been suggested by the member for Murchison, to the Floor but it needs to be in writing. You have to withdraw or you can proceed and the vote will be taken.

Dr SEIDEL - Considering we are having this debate about how to proceed, in particular putting the amendment in writing to members, may I suggest, it is almost five to six, the Leader may consider to report on progress, that would then include having a dinner break and then we can resume in 45 minutes.

Madam DEPUTY CHAIR - We still have an amendment before the House - again, there are two options. The member can withdraw her amendment and then we report progress, or the member can let the motion go to a vote and members of the House will make their

decision. There then is an opportunity for an amendment to be drawn by whoever might like to do that. If the Leader reported progress it might not take that long to have an amendment withdrawn. I believe the member for Murchison has sent an email, at this point in time. The member for Nelson either withdraws or proceeds with the vote.

Ms WEBB - I am happy to withdraw my amendment on the basis an alternative will be put that I agree with. My understanding is the proposed further amendment - from the member for Murchison, potentially, or maybe another member - will fulfil the same intent the amendment I have proposed would fulfil and would be something along the lines of altering (b) there to say, ensure a public health approach is taken to protect people, particularly people who are vulnerable from being et cetera. That is what I heard the member for Murchison say and I am very happy to withdraw my amendment to make way for that amendment to be brought. Hopefully, we will have the opportunity to then vote on that. I agree wholeheartedly with the member for Murchison, and the member for Huon who expressed the clear astonishment there would be any objection to that kind of approach being articulated as very appropriate in these circumstances. Thank you to members.

I withdraw my amendments.

Madam DEPUTY CHAIR - Does the member request to seek leave?

Ms WEBB - I seek leave to withdraw my amendments.

Leave granted.

Amendments withdrawn.

Mrs HISCUTT - Madam Deputy Chair, I seek leave to report progress.

Leave granted.

Progress reported; Committee to sit again.

SUSPENSION OF SITTING

Mrs HISCUTT - Mr President, I move -

That the sitting be suspended until the ringing of the division bells.

Sitting suspended from 5.57 p.m. to 7.04 p.m.

GAMING CONTROL AMENDMENT (FUTURE GAMING MARKET) BILL 2021 (No. 45)

In Committee

Resumed from above.

Clause 33 -
Section 2A inserted

Ms FORREST - Madam Deputy Chair, I move -

> That proposed new section 2A(b) be amended by inserting, 'take a public health approach to', before 'protect people'.

Mrs HISCUTT - The Government will not be supporting this amendment. The insertion of the term 'public health approach' into the start of subclause (b) is overly restrictive. While it addresses the risk of harm to subclause (b)(i), it restricts the consumer approach being taken to address (b)(ii)) which seeks to protect people from being exploited by gaming operators. Subclause (b) seeks to encompass both health and consumer protections as it is the best practice approach to gambling regulation.

This amendment would restrict that from happening by limiting decision-makers to a public health approach.

Ms WEBB - I find that utterly astonishing. We could potentially pause on this one for a further amendment to be drafted. If the Government's objection is simply because of the constraint that this proposed amendment puts on (b)(ii), I believe a further iteration of drafting would provide the effect of the amendments that I had initially intended, with the one I put, and the member for Murchison has now attempted through this version, without putting such a constraint. We could find another form of words to do that. I would like to know the procedure by which we could explore that option and potentially move on from this clause. However, first we could explore that option so we can bring back an amendment that I believe should have the support. If the Government's objection was only the constraint issue but they could support it in its substance, we could make that happen.

Mrs HISCUTT - The objects of an act are intended to be very broad. The Government believes it should not be too restrictive. We believe that we have the balance right here, and we would like to proceed with the amendment as it stands in the amended act.

Dr SEIDEL - Madam Deputy Chair, I would be inclined to support the amendment. To be frank, what does it take for this Government to support a sensible amendment? This amendment is not drafted to ensure exclusivity. It just points out that a public health approach should be considered and should be taken. It does not mean other approaches can also be taken, and taken into consideration. It does not exclude ideas about facial recognition and so forth as well. What does it take to agree on a sensible amendment?

The objects of the bill are meant to be focusing on harm minimisation. I ask the Leader, what harm minimisation measures are actually in that bill? None. The Leader referred to the principal act? How often is harm mentioned in the principal act? In over 539 pages, harm is mentioned exactly once.

It is a sensible, commonsense amendment just to ensure that a public health approach is considered. When we are dealing with protecting the most vulnerable from disastrous consequences of pokies addiction and gambling addiction, how hard can it be for this Government to support a sensible amendment?

Mr VALENTINE - It has been said but it seems to me that we need to grow a heart. The object of the act - how constricting is it to take a public health approach? It is not specifying exactly what that approach should be. It is talking about the broad issue of a public health approach. We need to grow a heart.

Mrs HISCUTT - I do think the Government does have a heart. I probably do not need to read in the objects of the act, but it needs to be fair, honest and transparent. It needs to protect people, particularly those who are vulnerable from being harmed by gambling and from being exploited by gaming operators.

I take a little offence that you are indicating that the Government does not have a heart. You are arguing over a point.

Mr GAFFNEY - The part that I am despondent about in this process is that I see this process as a way of reviewing and strengthening legislation. We have had sensitive documents and sensitive bills come to this place before where there have been numerous times when we have tried to improve the legislation.

Every time, when we are trying to make something better the Government is going 'no' and so do other parties in this place, 'no, we don't accept that amendment'. I find that disheartening because what is the use of us trying to come up with ways of improving by putting in a public health approach if we are going to stonewalled?

The Government needs to revisit what this parliament does. Parliament improves legislation. In this instance, whoever is giving the advice is giving poor advice. This is just a simple expansion of what is better practice for our legislation. I would like the Government to reconsider its point of view. The member for Murchison has put a clear and easy to read and easy to understand point of view which is contemporary thinking to do with public health.

Ms ARMITAGE - I do not see a problem with this amendment either. It is quite a broad approach. It is preventive health. It is public health. It strengthens the amendment and I will be supporting it.

Ms FORREST - I thank members for their comments. I am not going to re-prosecute what I said before dinner. I hope everyone can remember that in what we are talking about when we are talking about a public health approach.

I ask the Leader to explain how taking a public health approach could somehow offend clause 2A(b)(ii) 'exploited by gaming operators'. If you are being exploited by anybody, whether it is another human being or a gaming operator, then the harm is to you as a person, to your mental health, your physical health, your financial health, your emotional health. That is what exploitation is about. That is what it does. A public health approach is one that looks at the whole person. It seeks to prevent ill health, to prevent harm and to prevent any sort of loss or exploitation by others. I fail to see how this could possibly offend clause 2A(b)(ii). I find it impossible to see that. That is a poor excuse for not wanting to support what is a very reasonable amendment. It puts the right framework at a high level.

I absolutely agree with the Leader. Objects of the act are high-level guidance. The high-level guidance required here is to take a public health approach to this very serious matter. Whether it be people being harmed by sitting at the machine, becoming addicted to it, or

whether they are being exploited by somebody. Sex workers can be exploited; we take a harm minimisation approach to that. We could do with some more legislation around that, but that is another topic. There are many people who are exploited, and you take the same approach to help those people.

I find that almost an offensive statement, to suggest that a public health approach would not be of any assistance or would actually offend part (b) of that clause. I urge all members to support this amendment, both the Liberal and Labor Party members in this House.

Mrs HISCUTT - If I can seek some advice. After a bit of consideration, to avoid ambiguity in this, as the commission is not a health authority and this is a gaming legislation, I am wondering how should I go about this. I would like to make an amendment to your amendment, if you are agreeable, just to really sort things out with the Clerk. If we were to say as it is but, 'take a public health and consumer protection approach to'. Okay, the way we would do that - I am having it drafted as we speak -

Ms Forrest - So the amendment to my amendment - you need to agree with my amendment and then put your amendment to my amendment, or the other way around?

Mrs HISCUTT - Unless you withdraw your amendment and put it forward as such.

Madam DEPUTY CHAIR - I have been advised it will be appropriate, if the member is in agreeance, that an amendment to the current amendment before the Council with -

Mrs HISCUTT - Okay. Before I proceed is the member for Murchison agreeable to that amendment to your amendment?

Ms Forrest - Yes.

Mrs HISCUTT - So I should move that now?

Madam DEPUTY CHAIR - We will need to circulate it first.

Mrs HISCUTT - Okay. As we speak -

Madam DEPUTY CHAIR - It needs to be in writing

Ms Forrest - Do you want to speak to it while you are preparing it for Council?

Mrs HISCUTT - As I have said the commission is not a health authority and this is a gaming bill. To get rid of any ambiguity we would like to add, 'consumer protections,' also, so the commissioner is clear on what the commissioner needs to do as well as the other objects you are trying to insert into the amendment. Are you agreeable to that, member for Murchison?

Ms Forrest - Yes, sure.

Madam DEPUTY CHAIR - Is it possible for the amendment to be secured from the printer?

Mrs HISCUTT - It has arrived in members' inboxes. We will just get that and circulate that to members. The clause would then read - should I read it in full, Madam Deputy Chair, as it would be?

Madam DEPUTY CHAIR - We need to wait until members have the amendment. The Clerks at the Table do not have the amendment. And nor do I. We do not have a paper copy here.

Mrs HISCUTT - It is on the way.

Madam DEPUTY CHAIR - The amendment is being circulated and once it has been, I invite the Leader to move her amendment. It has been suggested that you might withdraw your amendment and we will resubmit a new one.

Ms FORREST - Madam Deputy Chair, thank you. I seek leave to withdraw the current amendment, to re-put another amendment. It has been circulated in the Leader's name but with the permission of the Chair, I will then rise on my third call and move this amendment to give effect to the discussion we have just had.

I seek leave -

> To withdraw the amendment before the Chair.

Leave granted.

Ms FORREST - Madam Deputy Chair, I move -

> That clause 33, page 45, proposed new section 2A(b) be amended by inserting 'take a public health and consumer protection approach to' before 'protect people'.

I do not wish to speak any further to this amendment.

Mrs HISCUTT - I have no more comments to make; I think everybody knows what we are thinking.

Ms WEBB - Very briefly, I just want to say I am absolutely delighted that we have arrived at this point and we have come through a process to agree on inserting a public health approach to these objects, as I had originally envisaged when I moved the original amendment on this clause. I thank the members who have contributed to making that happen, to come to that agreement.

Amendment agreed to.

Clause 33, as amended, agreed to.

Clause 34 -
Section 3 amended (Interpretation)

Ms WEBB - I am going to begin with questions. The answers may mean that I do not bring my amendment to this clause, so I am using my first call to put some questions to the Leader.

Madam CHAIR - That is your choice, but you do use a call.

Ms WEBB - I understand.

The questions are in relation to part of this clause 34, 'Section 3 of the Principal Act is amended as follows'. I am looking on page 49, paragraph (n), where there is a definition for gaming machine. The amendment that has been made in the bill is to change it in the principal act so it reads:

> ***gaming machine*** means any device (other than an FATG machine) that is designed -
>
> (a) for the playing of a game of chance or a game that is partly a game of chance and partly a game requiring skill ...

Is this allowing a product that is not allowed under the current definition of gaming machine, where it does not have reference to partly a game of skill? Has this definition been changed in order to expand what may be allowed, or simply to better describe what is already allowed? I want to understand why the change is required.

Mrs HISCUTT - No, it does not expand what is allowed. The definition of game in the current act is the same as that in this section - i.e., including a game that is partly a game of chance and partly a game of skill. The gaming machine definition currently includes this. Consequently, the proposed removal of the term would remove a current definition of a game.

Clause 34 agreed to.

Clauses 35 and 36 agreed to.

Clauses 37 and 38 agreed to.

Clause 39 -
Sections 9, 10, 11,12, 13, 14, 15 and 16 substituted

Ms FORREST - Madam Deputy Chair, I move -

First amendment
Page 61, proposed new section 11, subsection (2).

Leave out the subsection.

And I will move a third also, because they are both related and if one goes, both need to.

Second amendment
Page 62, same proposed new section, subsection (3).

Leave out the subsection.

This is the matter related to high-roller casinos, which exclude Tasmanian residents from participating in gaming at a high-roller casino. Firstly, I have no interest in high-roller casinos, I do not really have an interest in casinos all up really, but the feedback I have from the community on this is why would we exclude Tasmanians from a place in Tasmania? When I asked about this is my second reading contribution there was no response provided in the tabled documents. I thought the best way to get some decent response is to propose the amendment, which I still believe is appropriate, unless I get a very convincing argument as to why we should exclude Tasmanians from a place in this state. Particularly, as the feedback I have got resoundingly from people around the community when I am talking about this or they have raised it with me is, how dare the Government tell us we cannot go to a certain place in this state that other people, particularly other people from other states and countries, could go to to gamble if they wish?

Mrs HISCUTT - The amendment is not supported. The restriction of high-roller casinos to non-residents provides an additional gaming market within Tasmania while not impacting on the existing casino market.

Ms Forrest - Say that again.

Mrs HISCUTT - I will in a minute. The restriction of high-roller casinos to non-residents provides an additional gaming market within Tasmania, while not impacting on the existing casino market. Tasmanians will still be able to participate in casino gaming at the existing general casinos. The proposal by MONA is for a unique, invitation-only high-roller casino offering table gaming only, targeting a specific component of the gaming market. It is specifically designed to attract high-value travellers to Tasmania. Therefore, we will not be supporting your amendment.

Mr GAFFNEY - I want to think about that a little bit, but I was a bit surprised then because I was thinking there would be a good reason for this. Then the first thing that came out was they want Tasmanian gamblers to go to our casino and not experience the enjoyment that Mona has to offer. Regardless of whether it is high-roller or whatever, to have a casino of that calibre in our state and to say, 'But you cannot go' - I could see what would happen if it was in Monaco, or some place like that where they say, 'by the way, you are not allowed to go to this'. I just do not think it is right and it nearly smacks of discrimination, to a certain extent. For example, if I lived in Tasmania and then I relocated and spent 10 years on the mainland, does that mean if I come back to Tasmania, because I was a Tasmanian resident and then I left and came back, would I be eligible? Do I have to be out of the state for a certain period of time or do I have to get permanent residency in another state to be able to gamble in a state of my own?

I understand what the Government thought they were doing, but what they have created is a bit of a nightmare socially. It is just plain wrong. I thought there may have been a convincing argument coming from the Government but the first words that come out, 'to protect our own casino'. I thought that was what this bill was all about, to take away those protections and to open up our state for a more fair and equitable position. This definitely is not so I am very disappointed in what I have just heard.

Mrs HISCUTT - I put on the record that it is a policy. It is a policy that we have had since 2017 and it remains unchanged.

Ms WEBB - Imagine our surprise that we find ourselves here with this bill, which apparently has as its central tenet - breaking a monopoly. Yet we find here deliberate protection of a monopoly by the self-same company that we apparently are breaking monopoly for on the other hand, when it comes to poker machines.

Ms Forrest - A smokescreen.

Ms WEBB - A specific intention to protect the monopoly of a private business from Tasmanian people, having the audacity to be given a choice. My goodness me. How surprising. How can you trumpet breaking a monopoly - which as the member for Murchison said, is an utter smokescreen anyway when it comes to the poker machine aspects of this bill - and then turn around and overtly and explicitly protect one unnecessarily? If the other part of the explanation were true, this would be unnecessary.

If what we are talking about here with these high-roller casinos is a different offering to our general casinos that we already have in this state, if indeed those high-roller casinos are targeted and geared to provide a very different and specific offering of a certain kind with a limited number of games and activities, that offering will only attract people who are able and capable of engaging with it. People who are high-rollers. The person on the street in Tasmania is probably unlikely to go there if that is the gearing of that offering to that market. So probably there would not be much competition between the general Tasmanian residents' use of our general casinos and what is proposed to be offered through a high-roller casino.

I think the potential for creating competition is marginal anyway if there is a genuine different offering being made through the high-roller casinos. Secondary to the fact that it would be marginal, it would be entirely inappropriate to put that protection in place unnecessarily, and deny Tasmanians that opportunity and that option.

I support the amendment. I do not believe it is appropriate. I believe it has been made even less appropriate by the explanation given by the Government here and I encourage other members to support the amendment too.

Mrs HISCUTT - I am just quoting from the joint select committee, recommendation 13 was:

> Any future casino licences will be limited to high roller non-resident casinos through a market-based process.

The Government picked that up and made that their policy. That is what we will be staying with.

Mr VALENTINE - I have to say, I am a little bemused by this but the main issue I want to go to is the legality of it. Is the Leader able to provide advice that may have been received to say that this was legal to do? I am concerned - you cannot restrict trade between states. This is not restricting trade between states; it is restricting trade within a state. I am concerned this might not be legal. I would like to hear some definitive legal advice that may have been provided to say that this is able to take place; that it is possible for adults to be shut out of a

facility that, for all intents and purposes, is a public facility in this state; because it is not shutting out any particular people from interstate or any class of people from interstate. I am interested in legal advice that may have been provided that says this is okay to do this.

Mrs HISCUTT - I am advised that the Government has sought legal advice on that and it is why we are moving forward with this amendment.

Mr GAFFNEY - Before I comment, I may have some of these facts incorrect but from what I remember when this issue first came up, I think it was from David Walsh himself when he wanted to have the high rollers. He said he would not expect Tasmanians to be able to do it. He also said he did not want electronic gaming machines. So, the conversation around that time was let's do this, let's put it in the bill. He said he did not want it; but there were a lot of recommendations that came from that committee inquiry that have not been acted upon and it cannot be used.

As far as a corporate person goes or a person in this state, for what MONA has done for this state over many years now, allowing Tasmanians free access for a lot of that time to that facility, and to enjoy that art work, there is no question in my mind about the capacity of that organisation and that man in wanting to have Tasmanians exposed to some world-famous cultural experience. This is how we repay that person - by denying that right to some of our constituents, who may have the funds to go there and may want to.

I think it was back in 2014 when it was first mooted, and the Government went into this, well we can't stop him; maybe we should say one down south, one up the north so it does not impact on the current arrangement we have with the Federal casino and we will make sure that none of our high rollers can experience that and be there. They can go offshore, but they can't do it here in the state; and with COVID-19, you cannot get offshore anyway. I would say we would be better off to rethink this situation, and not deny some of our people who like that experience to be able to participate in it like all the other Australians that would be able to do that.

Ms WEBB - I would also point out in terms of this being the rationale for excluding Tasmanians effectively being to reduce competition with our general casinos, let us remember, poker machines will not be allowed at these high-roller casinos. Our general casinos draw something in the vicinity of more than 85 per cent of their income from poker machines. The vast bulk of their business is poker machines to locals. The competition will be for a marginal part of our general casinos' business. It will be an offering geared to high rollers - probably not to the general use of our general casinos, such that it is on the table gaming aspects of those; which I believe is something like 11 per cent of the income of those casinos. I stand to be corrected on that; it is an approximate percentage.

Another reason that I think this overt protectionism and overt support of a monopoly to the exclusion of Tasmanians is also misguided, because it is not even a like-for-like competition between what is proposed with these high-roller casinos, and what we know exists in our general casinos here. They are primarily pokie barns where the vast bulk - more than 85 per cent - of their income comes from pokies. It is not going to be competing at all.

Mr VALENTINE - I again ask the Leader about the legality. You said the Government sought legal advice. Can you confirm that that legal advice said it is okay to do this?

Mrs HISCUTT - The Government is satisfied that the amendment that stands in the bill does not offend the Constitution.

Ms FORREST - I will make a couple of brief comments on the debate. I was very surprised to hear the Leader's response to my questions in the second reading, and that I finally got the answer when proposing these amendments. It is effectively, in my view, an anti-competitive approach that has a protectionist aspect for the current casino operators. There is no other way you can look at that. When you go back and read *Hansard* and what the Leader said when she first responded to this amendment, that is what she said.

It was to push people into the Federal Group-run casinos. There are only two in the state at the moment.

There are high-wealth individuals in Tasmania. Some of them live in my electorate and there are others who live in other parts of the state. Some of them I know quite well; some I do not. There are people who certainly have the capacity to participate in high-roller gaming practices if they wish to. Why should they not be able to do it in this state? Why should they not be able to go to MONA, if MONA gets a licence; they can participate there and have the money come back to - as the member for Mersey described - a business that has created enormous benefit to the state of Tasmania?

In terms of Federal Group, I met with Greg Farrell to discuss this matter prior to the debate, as well as other aspects of the bill. He said that Federal Group does not tend to rely on junkets to bring in high rollers; that is what other big casinos do. I am pretty confident that David Walsh, if he has a high-roller casino, will bring in junkets. That is the way it works. That is what they do. Junkets are described in the principal act, if you want to know how junkets work.

Why should a Tasmanian who wishes to do this - I do not understand it myself - but if they wish to participate in that sort of activity, why should they have to go out of this state and why should a Victorian be able to pop across the water and participate in a Tasmanian facility when a Tasmanian cannot? It just does not make sense. The answer I received clearly raised anti-competitive flags in my mind, and a protectionist approach to a particular business in this state and I consider it is inappropriate.

If the current casino operators - the Federal Group - decided to open a high-roller casino in the north of the state, the same would apply to them. I accept that. I just do not think it is appropriate. I am not going to say any more on it.

Members will make up their own minds but from my feedback from the community, members who realised this was in the bill were horrified to think that Tasmanians would be excluded from participating in an activity of their choosing in their home state that they are legally entitled to do, except under this bill if it passes.

Mrs HISCUTT - The Government has carefully considered this matter, has taken advice, and the Government has formed a view with confidence that the clause, as drafted, is appropriate, defensible, and constitutional.

The nonresident requirement is an important one. The Government believes there is minimal risk that the restriction of high-roller gambling to only non-Tasmanian residents would

offend Section 117 of the Constitution. If somebody was reading the Constitution that might be the section that would prompt the member's question. The Government is very confident of this.

Ms Forrest - That is in response to the member for Hobart?

Mrs HISCUTT - This is the advice we have been given.

Ms ARMITAGE - I tend to agree with the members who have spoken. It might not be unconstitutional, but that does not mean that it is right. I will certainly be supporting it.

Madam CHAIR - The question is that the amendment be agreed to.

The Committee divided -

AYES 5	**NOES 8**
Ms Armitage	Mr Duigan (Teller)
Ms Forrest (Teller)	Mrs Hiscutt
Mr Gaffney	Ms Howlett
Mr Valentine	Ms Lovell
Ms Webb	Ms Palmer
	Dr Seidel
	Ms Siejka
	Mr Willie

Amendments negatived.

Ms WEBB - I am going to move one amendment on this clause in my name. Madam Chair - I move -

> That clause 39, proposed new section 11(4)(b) be amended by inserting the following paragraph -
>
> (x) FATG games;

I will explain my rationale for my amendment. This is to define offerings that will not be available in the high-roller casino. Already the clause as it is in the bill identifies that certain gaming activities, gaming machine games and the conduct of Keno will not be part of this offering. That is the way I read it. My amendment is to include fully automated table games to that list of things that will not be offered as activities in the high-roller casino. I believe that the rationale for doing that is consistency.

When we spoke on the previous amendment, we discussed where this high-roller casino proposition came from. It was back in 2015 when David Walsh wanted to put a high-roller casino at MONA. I think it is our general understanding in the community, he very explicitly did not want to include poker machines, electronic gaming machines as part of that casino offering that he was proposing. That has always been understood.

What I am suggesting is that in line with that, we would not want to see fully automated table games as part of that offering either. Rather than being similar to high-roller table games that people may want to engage with in a high-roller environment, fully automated table games are much more similar to a poker machine. They are an electronic-based, high-intensity, rapid-gaming product that is not something that people would come on junkets to play and is not that high-roller exclusive elite environment that other table games involve.

Further, we also note that because they are electronic machines they do not require staffing so there are no employment benefits to allowing those sorts of gaming activities in a high-roller environment. We know the risk of harm is high. Now, even though we have had it confirmed just now there will not be Tasmanians in those environments, we are still responsible for the harm that might be caused within them because they exist in our state. I presume that people who are going to a high-roller casino are very much actively choosing to be there and engage in those activities. But, again, I do not believe an automated table game is an appropriate offering for that space. So, for consistency with the original intent of those environments and with the other things that are being excluded, I ask members to consider this amendment.

Mrs HISCUTT - There was originally no intention to have FATG games in these high-roller casinos anyway. We see no objection to that amendment.

Amendment agreed to.

Ms WEBB - I have more questions for the clause, if that is okay. I have one more call.

Mrs Hiscutt - Just for clarity while the member is on her feet. The second amendment?

Ms WEBB - I am not moving that.

Mrs Hiscutt - You are not going to move that? Thank you.

Madam CHAIR - The question is the clause as amended stand part of the bill, so you are going to speak on the amended clause.

Ms WEBB - Clause 39, yes, that is right. I have a series of questions. I will go through them slowly, there are a few of them. This is a long clause, there are a lot of elements to it. On page 63, part 13, where it is about an offence to breach licence conditions. It has a penalty there for a casino licence if the conditions have been breached. Is this consistent between the holder of a general casino licence and a high-roller casino licence? Do they incur the same penalty for breaches? Is there the same set of conditions that may be breached, or would there be expected to be some distinct conditions that would apply in a high-roller compared to a general casino licence? They were my questions on the offence to breach licence conditions.

Looking to page 66, still 13B, subclause (5) and (6) of that part. I have lost track of which we are up to, subclauses or clauses. These ones relate to:

> (5) A high-roller casino licence may be granted in respect of one casino only, but more than one licence may be held by a casino operator concurrently.

(6) The Commission must not grant a high-roller casino licence in respect of the same premises, or part of premises, for which a general casino licence has been granted.

In relation to those two parts, an entity that had a general casino licence could apply for and get a high-roller casino licence as long as it is not for the same premises they operate their general casino in. I would like that clarified, that you can actually hold both a general and a high-roller casino licence, just as long as they are not on the same premises.

I take paragraph (5) to mean the same person could have both the north and the south high-roller licence. I would like that confirmed. Could in fact then, if that is true and my first question is also true, could you have the same entity own both our general casino licences and both our high-roller licenses theoretically, as long as they are all on different premises? I am not sitting down, I have another one. Are you ready for the next question?

Looking at part 14, which is about amendment of conditions. The parts I have questions about are on page 68. Actually, it is about this whole part 14, about amendment of conditions. I read this gives the commission the ability to amend conditions on casino licences. My question is on that power for the commission. Is there any scope to the significance of the conditions the commission of its own volition can alter on the licence? What could be the scale of the change the commission might make to conditions on the licence? Is there a role where there is any reference to, say, the minister, because we know it is the minister who grants the casino licence? I am wondering about changes to conditions and if there is a point at which then there is also ministerial direction or endorsement needed? In particular, subclause (7) there on page 68, which relates to:

(7) Where an amendment to the conditions of a casino licence or keno operator's licence is proposed under this section by the licenced operator, the proposal is to be accompanied by the prescribed fee.

Currently when licences perhaps are altered by the commission, is there a prescribed fee or are we introducing this as a new element? If there is currently a prescribed fee, will this new one be consistent with that, are we just continuing an arrangement, or will there be an increase in that fee? Those are my questions. Do you want me to repeat any of them?

Mrs Hiscutt - No, I think we have it all. We just need a bit of time to get it together.

Ms WEBB - Thank you. I appreciate that. It is a long clause, there are just a number of elements I wanted to ask about.

Mrs HISCUTT - Just seeking some advice. Thank you, Madam Chair, I will try to whittle my way through this. I think we have covered everything. The answer to the first question, part 13 was yes, casino and high-roller have some penalties. They may be different conditions for high-roller casinos but they are yet to be determined and 13B - yes, a general casino licence could hold a high-roller licence. Yes, a person could hold both a north and south licence. Hypothetically all licences could be held by a single operator. Part 14, the commission could set any conditions it believes are relevant provided they are not ultra vires. The fee under this section exists and while it will be reviewed it will not be expected to change materially. The minister can set conditions on the issuance of a licence after which the commission may set others.

Mr VALENTINE - My question is on page 62 and it is subclause 11(3). I am interested in and it says:

> (3) For the purposes of this section, a person is not a resident of this State if the person's ordinary place of residence is not in this State.

There are a lot of older people who spend six months here and six months in Queensland. They follow the sun. What are you using to define whether a person is resident of this state? Are you using the electoral roll? Clearly, if they are spending six months in a different house, probably their house in the north of Australia, and six months down here they may well have mail that goes to both places. Can you please explain how you determine where a person is ordinarily resident in that circumstance? Quite clearly, as it is indeed the purpose to not allow people who live in Tasmania to attend these high-roller casinos, it is an important question for some.

Mrs HISCUTT - The normal place of residence is where they normally eat and sleep. Practically the person will need to be able to provide identification, photo ID, showing their usual address. In the hypothetical we can look at the location of their driver's licence, electoral roll, where bills are sent et cetera. A person spending exactly six months in two different places is very hypothetical and the calculation is 162.5 days in each place to be half-way, so we would be looking at identification, photo IDs and the usual address and possibly even where they would vote.

I would just like to slip in there, we have 149 clauses to go.

Mr VALENTINE - I have two more questions left. It does happen. I kid you not. It happens. So there are two questions left, one on page 65, which is 13B. In this section - Northern high-roller casino licence is blah; Southern high-roller casino licence is blah. It talks about the southern and northern divisions of the state. I cannot see a definition of that anyway. I have looked in the main bill. I know lots of people say it is Oatlands. It could be the 42nd parallel in Ross for all I know, but it says, 'the Northern Division of the State' but it is not actually detailed in the act and -

Ms Rattray - I actually asked that through the briefings.

Mr VALENTINE - It might be through -

Ms Rattray - Acts Interpretation Act.

Mr VALENTINE - Acts Interpretation Act has it, does it? Well, I will probably hear that. The next question is on page 69 and it is about the duration of the licence, as it says there it is 20 years. Did you consider a shorter licence period than 20 years, given that long licences encourage complacency? It is something that Professor Charles Livingstone talked about.

How did you arrive at 20 years? Did you consider a shorter period, given the research in that space?

Mrs HISCUTT - To answer the first part of the question, yes, we have just checked the Acts Interpretation Act and the member for McIntyre is absolutely right.

Mr Valentine - She is quite right. She had the answer.

Ms Rattray - I was sure it was going to be Oatlands as well.

Mrs HISCUTT - It is there, so we will just seek some advice.

Mr Valentine - I want to know exactly what is north and what is south.

Mrs HISCUTT - It is based on the 42nd parallel.

Mr Valentine - So, Ross is out?

Mrs HISCUTT - Whilst I am waiting on that advice I could read from the Acts Interpretation Act if you like? I will seek advice, Madam Chair.

The Government's policy provides for the Federal Group to retain its two casino licences, subject to negotiation on licence fees, tax rates in a term of up to 20 years.

So that was part of our policy. Allowing a casino licence period of 20 years will provide the Federal Group with investment certainty in relation to its two casino properties. I think this was discussed at length through some of our briefings about financial certainty.

Dr SEIDEL - I made reference to the residency definition in my second reading speech and I did that because I was concerned that we are just amending an act, using 180 different sections again. We already have a definition of residency in other legislation, for example the voluntary assisted dying (VAD) bill. It is really quite specific. We talked about this at length. We already have a definition of who a resident of Tasmania is and what sort of evidence can be provided to prove, or not to prove, that you are a resident in Tasmania.

Why have we not considered the definition that is already existing in legislation passed in this parliament recently, or to have consistency in the legislation that we actually have in this state? It is in part 3, clause 11 of the VAD bill.

Mrs HISCUTT - I have already put on the record the Government's response. It was discussed at length during the briefings. I do not think there is anything more that we can add.

Madam CHAIR - The briefings are not on the record, Leader.

Mrs HISCUTT - That is true. However, I have delivered what was discussed and it was the answer to the question. I do not believe the Government can add any more.

Dr SEIDEL - I would like to express my disappointment because we have over 180 clauses, and again it is to provide legislative certainty. That is why we do this. We have a very broad definition when it comes to residency in this legislation. Whereas, in the end-of-life choices legislation, we have a very specific definition of how we can prove residency in Tasmania.

It is not clear to me why the Government has chosen not to incorporate existing definitions and proof for residency as existing in the end-of-life choices legislation into the bill we are currently debating. What is the rationale? Why are we reinventing the wheel?

Mrs HISCUTT - The definition of residence was not seen as necessary. It is the term well understood in law and by judicial consideration of its meaning.

Clause 39, as amended, agreed to.

Clauses 40, 41, 42 and 43 agreed to.

Clause 44 -
Sections 22 and 23 substituted

Ms LOVELL - Madam Chair, I move the amendment in my name -

Page 75, proposed new section 23, subsection (2), after paragraph (h).

Insert the following paragraphs:

(ha) the applicant has a history of not complying with a law of any jurisdiction in Australia relating to industrial relations or workplace safety; and

(hb) the applicant will have appropriate systems and processes in place to ensure that each person who is engaged, or employed, by the applicant, is not subject to discrimination, harassment or other adverse action by the applicant, or by a person engaged or employed by the applicant, if the person provides information relating to -

(i) the compliance of the applicant with the requirements of this Act; or

(ii) conduct of the applicant; and

I would like to acknowledge that this amendment was suggested and drafted in consultation with workers at Wrest Point and Country Club casinos. So, this amendment has come from workers who have identified that this is an area in which they feel particularly vulnerable and are seeking those additional protections. This is to ensure that there is a legislative framework in place to protect any future whistleblowers from any sort of adverse action or any other conduct that is illegal by their employer or anyone else who works for that employer. We know how important this is and we have seen this play out very recently with the royal commission into Crown Casino in Melbourne which was prompted by the actions of a whistleblower.

This amendment deals with the part of the act that considers the character of licence applicants and ensuring that those people who are granted licences are fit-and-proper people. I would argue that ensuring that those applicants are adhering to workplace safety and other industrial legislation and to have those practices in place to protect whistleblowers, particularly, is an important aspect of that and should be included in the bill.

Mrs HISCUTT - Going back to my farming days, normally I would have said that this amendment is a weed. As we know the definition of a weed is a plant out of place. I would

have thought it would be more acceptable in the workplace health and safety laws. However, the original amendment that the member put forward had a much further reach. We have looked at this amendment and it has been changed to be more acceptable to the Government. Therefore, we will not be opposing the amendment even though I still think it is in the wrong place.

Ms RATTRAY - A question to the member. When you say the applicant has a history of not complying with a law of any jurisdiction in Australia relating to industrial relations or workplace safety, do they have to have been charged and found guilty to come under (ha)?

In (hb) 'the applicant will have appropriate system and processes in place to ensure each person who is engaged, or employed, by the applicant, is not subject to discrimination, harassment … ' and so on, can I have some detail about that? I know the Government has indicated its support for it. That is fine but we need to have some clarification about what that means. I am particularly interested in whether they have to have been charged and found guilty? Or can they have just been charged and found not guilty? I think we need to have that fully explored.

Mr GAFFNEY - I was pleased to see this one presented, especially about how important the whistleblowing is. However, I did have some concern when I first saw it, because it just deals with people in casinos and Keno licence holders, or people like that. I thought, what about people in pubs and clubs - they would have the same situation? I approached OPC about it and they said yes, that should be in there, but there is a place in the principal act in 38(2) which would make it a new clause. Whilst I am accepting of the whistlerblowers I do not think anybody has any concerns that it should not apply to everybody in casinos and pubs and clubs. The same thing could happen in a pub and a club, and not all of our pubs and clubs are tiny venues in little rural and remote communities. There are some that have corporate sponsorship all over them, and different big groups associated with them. If we are going to protect the people in our casinos and our Keno licence operators, we also have to protect people in pubs and clubs. I am supportive of this, but when we get to a new section 38(2) it will be to supplement what is being suggested by the member for Rumney, to include members of pubs and clubs. That is the best place, according to OPC, where that should go.

Ms WEBB - I have some clarification questions on the amendment. Like the member for McIntyre, I am interested in the first paragraph (ha) and the history of not complying. I look forward to hearing the answer to the member for McIntyre's questions on that, because I was also wondering is it just a one-off instance, or does it have to have been -

Ms Rattray - Repeats.

Ms WEBB - Yes. My other question to add to those from the member for McIntyre, is, in relation to that paragraph, does it have to have been in this same industry or could it be any industry that they may have run a business in or operated in?

My next questions relate to paragraph (hb). Because we are potentially inserting this amendment into this list of things that the commission takes into account in determining an application for a casino licence or a Keno operator's licence, the things in this list have to be assessed and determined by the commission. I have already heard the Government, on other matters in debate, express concern about extending things that the commission has to give consideration to beyond its actual remit and expertise. We are inserting an assessment of

whether the applicant will have appropriate systems and processes in place to ensure that the people engaged are not subject to discrimination, harassment or adverse action by the applicant if they effectively are whistleblowers.

I am wondering, from the Government as well as from the member who is moving the amendment, what confidence we will have that the commission has the capacity and expertise to make that assessment about appropriate systems and processes; how is that within the usual remit of things that it has responsibility for determining? The second part of that question is, if we do include this through this amendment and it becomes part of this determination for a licence, does it then also become part of a compliance regime with the commission being responsible for inspecting and auditing or keeping track across the duration of the licence? Will we expect to see this emerge in regulations? Will we see it around conditions of licence that may be granted, once this determination has been made under this section? I want to understand where else this arises as a matter for consideration and impact if we do include it as part of the initial consideration for the licence.

I absolutely support whistleblower protections. Reading the amendment, I can certainly see where it was derived from concerns that would have been raised by workers. It is not that I am not supportive of the intent of this amendment. I am concerned, because I do not fully understand what it then requires of the commission and subsequent regulatory environments if it is put here. I am certainly supportive of the member for Mersey's point, that if we are applying it in these licences and the consideration of these, we should also be applying that same matter to the other environments that are relevant in this act. Those are my questions on the amendment.

Ms LOVELL - Thank you members for your comments and questions in response to the member for McIntyre and the member for Nelson's query around the history of noncompliance. The laws to do with industrial relations are determined by the Fair Work Act. That would be if action was taken against that employer and upheld in the Fair Work Commission, which is fairly standard in industrial actions in terms of determining whether an employer has a history of noncompliance. That is how that would be assessed. There are varying degrees of noncompliance, and the commission would make that assessment. Workplace safety laws are governed differently, but it is a similar thing. We are not talking about somebody where some allegations had been made that had been investigated and were not found to be upheld. That would not come under this. That is not the intention.

In relation to the member for Nelson's question on whether that is intended to apply only to this industry or to any industry - it is not specific to this industry. That is why that has been left broad; it does not specify that it is particular to this industry. That is because workplace safety is something that applies across all industries, as does industrial relations law. If we were looking at issues like wage theft or exploitation of workers, it would not need to be limited to this industry to demonstrate that the employer is perhaps not a fit-and-proper person to hold a licence of this nature.

In relation to questions about the second paragraph of the amendment and appropriate systems, again that would only be prescriptive around that because that might look like different things in different workplaces. They would need to be able to demonstrate to the commission that they have systems in place.

Ms Rattray - Like a policy for harassment and bullying and -

Ms LOVELL - Yes - policy, education programs, that kind of thing, just to protect their employees in the instance of whistleblowing. Regarding ongoing monitoring and compliance, I would like to see this brought into regulations at some stage, to ensure there is a process to monitor that on an ongoing basis. In terms of the bill, this is where we can insert it for that to be part of the initial assessment in the application for a licence. This is an area that is a passion of mine, and I would like to see that included in whatever way we can, to ensure that there is ongoing monitoring.

I appreciate your comments, member for Mersey. I am happy to support that when we come to that clause, to extend these protections to pubs and clubs as well. Thank you for picking that up. I ask members to support the amendment.

Ms WEBB - I have a couple of other clarifying questions. You mentioned that with paragraph (ha), that relates to the history of not complying, that is defined in the fair work space and there would be some measure there of what would amount to a history. I think your answer was about there is a way that is determined within the fair work environment. In relation to that there are two parts. There is what constitutes having a history of not complying, but also - and I do not know enough about industrial law and what would be captured in the law relating to industrial relations and workplace safety but imagine there is quite a spectrum of things that range from either relatively minor through to very serious breaches. It is not clear to me if this looks quite categorical there could be things relating to what would be at the minor end of this spectrum that would be captured by this. Is it up to the commission to test the reasonableness then of applying that in this situation? Or is there something within the fair work environment or workplace safety that makes delineation between minor things and things of significance? Again, given it is across any industry and across any period of time, imagine someone coming to apply for a licence who may have had something back in time, perhaps an entirely unrelated area and I am trying to ascertain does that then mean they do not get this licence? It is about how the moving parts of this come together. I just have to gather my thoughts because I had another question on the second part.

What we are looking at is in relation to matters to be considered in determining applications for a casino or a Keno operator's licence. This section might be to the Government potentially to answer this because it is related to the bill more than anything, rather than amendment. Does this come into play then only in the first instance, when a new licence is being considered or when a renewal of licence is being determined by the commission, because that is quite significant? If this comes into play at a renewal of licence, then everyone who currently holds a casino or Keno operator's licence presumably would have this applied on renewal if that is where it sits. If we are contemplating extending it to venue licences, presumably, if it does apply to renewal, it will apply to renewal in that area also. I am not necessarily objecting to that - if it did apply to renewal as well as the initial application for a licence, perhaps that is a way of really ensuring workplaces and people running them are staying compliant with these things. I am interested to understand where this fits in those terms. Thank you.

Mr VALENTINE - It is interesting, this is obviously to do with the applicant and their history but surely with any corporation within Tasmania, these things would be covered under normal industrial law, wouldn't they? I cannot see why we need this if normal industrial law covers the behaviour of employers. If we are going to do this to this bill, how many other bills do we have to do it to to handle industrial relations issues? It just seems to me, you are probably

more au fait with this than I am, but if you can explain that when you get up on your last speak, I would really appreciate it.

Ms LOVELL - First of all, in response to the member for Nelson and questions on what determines a history, spectrum of severity of noncompliance or different issues in industrial relations matters, length of time. It would be unworkable to capture all of those.

Ms Webb - I am not suggesting you try.

Ms LOVELL - No, I am trying to explain why it has been drafted the way that it has. It has been drafted so it is an assessment that is determined by the commission, because it would be unworkable for us to try and capture every possible scenario. You could not do it. We would not want to define it and say these things are okay, these things are not okay, but if it was this one it was okay, if it was this recent it is not okay. That is why it is left up to the commission to determine, to be able to look at the history of that company, that applicant and determine whether they have demonstrated they have adhered to industrial relations and workplace safety laws in the country.

There is not a delineation or definition as such in the Fair Work Act in terms of what is severe and what is not as severe and those sorts of things. That is why it needs to be determined by somebody and in this instance, it is seen it is most appropriate it is done by the commission.

In terms of application or renewal, again we have decided this is the most appropriate place for this to be inserted into this bill so if somebody at any time applies for a licence under the provisions of this clause this is part of the assessment made in determining whether or not they are a fit-and-proper person to hold that licence.

Ms Webb - That did not quite answer my question. I asked, does this not apply to renewal of licence, only to initial application?

Ms LOVELL - It would apply to any applications made under this clause.

Ms Webb - But it would never apply to the two casinos in this state then?

Mr Valentine - No, because they are not new.

Ms Webb - But they will only ever be renewing their licences from here on in. That was the intent of my asking that question. This will never apply to the two general casino licences?

Ms LOVELL - That is not the advice I have.

Ms Webb - Therefore it would be renewals?

Ms LOVELL - That might be a question for the Leader in terms of what this clause covers in terms of applications or renewals. I am proposing an amendment to the clause in terms of how the clause applies. That is perhaps a question best answered by the Leader and the advisers. Member for Hobart - the question on why we need this in this bill and why is it not covered under normal industrial law? Technically, it should be covered under the industrial laws that apply in the state but what we wanted to achieve by inserting it into this bill is to be explicit if you are going to apply for one of these licences, you have to demonstrate these

requirements because of the responsibility that comes with these licences. We have seen why that is so important in instances like what has been playing out in Crown Casino and the royal commission. That was started because of the actions of a whistleblower. It is an area vulnerable to corruption. There is a lot of money involved. It is an area we think needs that fact explicitly expressed this is an expectation if you are to be applying for a licence.

Mr Valentine - It would seem to me you can put what you like in law, but if you are going to flout the law anyway, are there any penalties in here, I do not know? I would have thought normal industrial law would protect individuals.

Ms LOVELL - Industrial law leaves a lot to be desired in this country.

Mr Valentine - I hear your answer.

Ms LOVELL - That is why that would be ideal. That is not always as easy as it sounds.

Ms Webb - While the member is on her feet …

Madam CHAIR - I am going to stop this pretty soon.

Ms Webb - It fits with the other clarification I sought. Does it apply to high-roller applications?

Ms LOVELL - It applies to applications for licences made under this clause in this provision of the bill.

Ms Webb - Maybe the Government could include that in their answer then about renewals and also high-roller.

Mrs HISCUTT - We understand it to be effective on renewal of licences and it will include high-roller licences. That is the way the Government understands it.

Ms FORREST - When I read in clause 39, which we have dealt with, but 16A Renewal of casino licence or Keno operator's licence, that is on page 69, subclause (3), sections 23, 24, 25, 26, 27, 28 and 29 apply to an application for the renewal. We are now dealing with an amendment to 23, which is named up, so it goes to renewals. According to that, when you go back and read that, if you read the legislation you understand it.

Clause 44 as amended be agreed to.

Clauses 45, 46 and 47 agreed to.

Clauses 48 and 49 agreed to.

Clause 50 -
Section 29 substituted

Ms WEBB - I rise to move amendments in my name to clause 50.

First amendment
Page 77, proposed new section 29, before, 'Except'

Insert '(1)'.

Second amendment
Same page, same proposed new section.

Insert, at the foot of the proposed new section, the following subsections:

(2) Before approving the granting of a general casino licence under subsection (1), the Minister must cause notification of intent to approve the granting of the general casino licence, together with any terms and conditions to be included in the licence, to be laid before each House of Parliament.

(3) Either House of Parliament may pass a resolution directing the Minister not to approve the granting of the general casino licence, of which notice has been given, within 15 sitting-days of the notification being laid before the House.

(4) The Minister must not approve the granting of the general casino licence unless, in respect of each House of Parliament, more than 15 sitting-days has passed since the notification of intent to approve the granting of the general casino licence has been laid before the House under subsection (2).

(5) Where a resolution under subsection (3) has been passed by a House of Parliament, the Minister must not approve the granting of the general casino licence.

Members, the fairly straightforward intent - although that is a lot of words to make it happen - of this amendment is to retain the requirement that when a casino licence is being granted it is something that is laid before parliament and has the oversight and the accountability to parliament and it is not granted just at the minister's discretion.

This is really important. Under our current act that is what has been required and this bill seeks to remove it and so this is inserting it. It is really important as part of meeting the objects of the act that licensing - those objects that are related to the licensing supervision and control and the integrity of how we set up this system. The parliamentary accountability, the legislative accountability that comes into play here in retaining a role of oversight for parliament, rather than just the minister of the day, is an important way to give effect to that.

It goes towards the object of the bill that is about returns and ensuring returns are appropriate for the state. As part of the conditions of a casino licence, there are going to be matters that are financial and relate to the returns to the state, and again I think that is something that should not just be in the minister's power to decide. That should be a decision that is accountable to the whole of parliament.

These are valuable licences to be granting. We have always recognised that as something that comes to this place to be signed off on in a sense, or at least given oversight of. This amendment does not do anything detrimental to the intent of this bill and these reforms. It does not hold anything up. It does not change anything about the structural changes that are being brought in under this bill. It does not interrupt those at all.

I have to ask the Government, why would we not - and I would ask other members too - why would we not want parliament involved with that oversight role about a very valuable, public licence that has been granted to a casino operator in, what we know is, a sensitive area of policy, and where we want to have the most rigorous oversight?

I encourage the members to support this amendment.

Mrs HISCUTT - The Government will be opposing this amendment. As there is no deed, capital investment or other commitments associated with the granting of a casino licence, the level of oversight required is reduced. Therefore, the bill removes the requirement for the ministers to seek parliament's approval to grant a casino licence.

The bill amends the procedure for the issue of any future casino licence, that is licence renewal, by allowing approval by the minister without the minister having to seek prior agreement from parliament, as is currently the case. This aligns the approval procedure to be consistent with the current procedures for other major gaming licences.

Ms RATTRAY - Regarding the member's amendment, can I ask why it would not be both Houses of parliament? In your second amendment (3), it is either House of parliament may pass a resolution directing the minister not to approve.

I heard what the Leader said on the Government's position. I am interested in why it would not be both Houses of parliament that -

Ms Webb - It is a normal disallowance provision.

Ms RATTRAY - In this case, you are turning down a licence, and so, I am interested whether - I mean, if that is your answer, because that is a normal disallowance arrangement, that is fine. I just thought it was worth asking why it would not be both Houses of parliament would have to agree, as with legislation.

Mr VALENTINE - We are talking about a 20-year licence; 20 years is a long time. It is nearly a generation. Some would say it is a generation. Earlier on it would have been, but 30 is probably closer.

It is a long time, 20 years. It is a fair and reasonable amendment because it gives the opportunity, if you like, as a bit of a circuit breaker. Let us say, and I am not necessarily casting aspersions on current licence holders, but let us say one of them got themselves into a circumstance where they really were not behaving as they should. You might say, well, the commissioner has the opportunity then of saying they are not a right-and-proper organisation or person to run a casino. That is possible.

Given that it is a 20-year licence, that is something that parliament ought to be involved with. Here we are deciding what the next 80 or 100 years, if you like, should be, because we

know that these things are rolling. But there is no other way of parliament being involved once this comes into play. Surely, the least that we ought to do is to have parliament involved in a major step of approving a licence. I support the amendment. I think it has merit. It is the normal disallowance; both Houses have to pass a motion to disallow, just the same as any other disallowance. So, I think it is a fair and reasonable amendment.

Dr SEIDEL - I am also inclined to support the amendment. I want to understand the rationale in subsections (2) and (3). I am not certain, considering that we are dealing with a simple disallowance whether subsections (4) and (5) add anything to it. I am wondering what the member for Nelson's thoughts are.

Ms WEBB - Thank you members for engaging with the amendment. It is nice when people engage with your amendments.

In relation to the member for Huon's questions, it is drafted according to the advice I received for what would be required to give effect to the intent. I cannot provide you with a drafting legal reason for why (4) and (5) are required. I presume it is to make sure that the granting of the licence cannot occur until (2) and (3) have fully played out. I am sorry I cannot give you a better answer than that, other than I have provided my intent and this is the drafting advice that came back to me.

I thank the member for Hobart for his contribution and thoughts on this. I agree with him. These are long licences. They are licences that we decide. Government policy has been to grant to a particular business in many instances exclusively. If for no other reason, this provides a way that we can be seen to be accountable to parliament more broadly rather than just to a minister of the day in terms of these licences. We have no expectation that there is anything untoward going on or any ill intent with the granting of these licences.

Mr Valentine - It is transparent.

Ms WEBB - It is transparency. It is for public confidence. I guess we can assume that it would be extraordinary for them to be disallowed but the fact of the matter is to be seen to be providing a way for accountability to occur if necessary. It is in the interests of our state to be shepherded by our parliament in its full role, rather than just at the discretion of a minister of the day. I think is really appropriate in this particular regulatory area for matters and licences that are valuable and lengthy.

I encourage members to support this. As I said, it does not disrupt the bill in any sense. It does not disrupt the structural changes in the bill. It does not put anything more onerous on the industry itself. It does not put anything more onerous on the commission. It is just a matter of accountability for a minister of the day, which we put into many pieces of legislation as a really standard transparency, so I encourage members to support it.

Madam CHAIR - The question is that the amendments be agreed to.

The Committee divided -

AYES 4	NOES 9
Mr Gaffney	Ms Armitage
Dr Seidel	Mr Duigan
Mr Valentine	Mrs Hiscutt
Ms Webb (Teller)	Ms Howlett
	Ms Lovell
	Ms Palmer
	Ms Rattray (Teller)
	Ms Siejka
	Mr Willie

Amendments negatived.

Clause 50 agreed to.

Clause 51 agreed to.

Clause 52 -
Section 30 amended (Change in situation of licensed operator)

Ms RATTRAY - Clause 52(3)(b) on page 78. I would like some clarification around this and an example of when this might be used because it is a significant role/input by the minister:

> (b) in the case of a person who is to become a major shareholder in the licensed operator, the Minister has given written consent to the granting of the prior approval by the Commission.

This is in regard to the changing situation of a licensed operator. When would that be used by a minister, that the minister would give written consent to the granting - with a licence to a licensed operator - of the prior approval by the commission. Just an example, thank you, for my clarification requirements.

Mrs HISCUTT - Madam Chair, I move -

That the Committee do report progress and seek leave to sit again.

Ms Rattray - I have a question to the Leader. I am just interested in the answer.

Mrs HISCUTT - Just by way of explanation, members, while you are on your feet, my advisers need two or three minutes to organise their paperwork, so members can stay here while they rattle around. Is that okay?

Madam CHAIR - Or they can take a break out of the Chamber which might be a good idea for everyone too.

Mrs HISCUTT - Just for two, three minutes.

Ms Rattray - That is fine, I just thought that perhaps we were breaking without the answer to a very important question.

Mrs HISCUTT - No, we are not. It is just to gather our thoughts together.

Motion agreed to.

Progress reported.

SUSPENSION OF SITTING

[9.18 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I move -

That the sitting be suspended until the ringing of the division bells.

Sitting suspended from 9.18 p.m. to 9.28 p.m.

GAMING CONTROL AMENDMENT (FUTURE GAMING MARKET) BILL 2021 (No. 45)

In Committee

Resumed from above.

Clause 52 -
Section 30 amended (Change in situation of licensed operator)

Mrs HISCUTT - In response to the member for McIntyre, as licences can be held by companies, this provision avoids a situation where, for example, the minister approves the granting of a licence to one company, and then another company seeks to take it over, either in entirety or in part. That may not be in the best interests of the state. It creates the same structure as for the granting of a licence.

Ms RATTRAY - Thank you, Leader, for that response but in that case, why would the minister need to approve the granting of the licence prior to the approval by the commission if it could be detrimental to the state? Why would the minister need to be poking about in there? Why would the commission not do their due diligence and decide what is appropriate, what is not and what is in the best interest of the state? I do not understand why the minister would even have a role in something like that. I need to be more convinced about that. I understand what you say, companies buy companies all the time - JBS Swift have just bought Huon Aquaculture. Cattle people are getting into fish. I understand that happens regularly, but I do not understand why the minister would need to give written consent prior to the commission. That is the commission's role.

Mrs HISCUTT - I have just been advised the commission and the minister look at two different things; or they can look at two different things. The commission looks at probity and the fitness of the entity whereas the minister would look at other things. It is like a double

safeguard. The commission has to do their work, but prior to that, the minister also has to do his work prior to the granting.

Dr SEIDEL - Madam Chair, my question is with regard to subclause 3(A). In this subclause the Government proposes a definition for a major shareholder. The Government proposes that is a person who holds more than 10 per cent of the issued shares in the body corporate. The question really is why the Government introduced the concept of a major shareholder?

If you look at ASIC for example, at how they define majority, they actually only define a substantial shareholder and the cut is actually 5 per cent. It is not 10 per cent.

My question is, is there precedence for introducing a definition of a majority shareholder or major shareholder with 10 per cent? Why did the Government prefer that to existing definitions proposed by ASIC of a substantial shareholder with a cut of more than 5 per cent of shares?

Mrs HISCUTT - Evidentally, in the principal act, they talk about an associate and 10 per cent. The advice from OPC was to put it like this because the 10 per cent reflects the current commission's approach to determining relative associates. OPC has advised that we bring it over from the principal act. To be clear, the 10 per cent is not in the principal act. It is what the commission currently does.

Dr SEIDEL - The Leader mentions that is what the commission currently does, yet she rightly identifies that it is actually not in the principal act. So, where does the 10 per cent come from if it is not in the principal act in the first place, without us introducing it in an amendment bill?

What is the rationale for the 10 per cent? Is there precedent? Is it a POS decision? Is it consensus based on stakeholder engagement? If that is not the case, why do we not use definitions for substantial shareholders as proposed by ASIC, and that is more than 5 per cent of shares?

Mrs HISCUTT - It is what the commissioner has determined so that it does not include small shareholders and small associates. They are looking at major ones.

Ms WEBB - I am going to revisit territory that the member for McIntyre began asking questions about because I do not believe we had a sufficiently detailed answer. I would like to to see if we can get some greater clarity.

I am looking at 52(3), where we are omitting subsection (3) from the principal act and replacing it with this 3(a) and (b).

What is being replaced? What is currently in the principal act if it is a major change for which the approval of the commission is sought under this section? On my reading, that part of the original act has no role for the minister in it. It explicitly puts a role for the minister in there ahead of the commission. The new subclause 3(b) says:

(b) in the case of a person who is to become a major shareholder in the licensed operator, the Minister has given written consent to the granting of the prior approval by the Commission.

This is inserting the minister above the commission in a role that is not currently in the principal act in this respect, on my reading. I think we need a much better and more detailed explanation of the need to have the minister inserted in this role above the commission. Why has that changed since the current situation in the principal act? What exactly is this process that the minister is taking responsibility for above the commission in this case?

I would like that fleshed out in a way that we can fully understand.

Mrs HISCUTT - This is here because it replicates the same provisions as applied to the initial granting of the licence. The granting of the licence is a two-part check. There is the commissioner and the minister.

You have to read 3(a) and (b) together before that happens. I think that there is more information to come.

Ms Webb - It looks like the minister is above. That was my question.

Mrs HISCUTT - It is a two-part check. Both have to happen.

Ms Webb - Why is it new? That was my question.

Mrs HISCUTT - Just seeking more advice. Clause 50 - we have been there - allows for the minister to approve the initial granting. This replicates that in order to ensure that another entity cannot subvert the minister's original decision. It is new because of the new effect of clause 50.

Ms WEBB - In the current iteration of the principal act, the minister is involved in granting the licence, but the minister is not in this part, which is about the major change situation and the approval of that.

I am repeating this question because it was not properly answered the first time. What has changed through to now, where we have decided that not only does the minister have to be responsible, without parliamentary oversight, for the initial granting of the licence but now is inserted as the primary approver, it would seem, as it has to pre-date the commission's approval, in this major change? The minister has given written consent to the granting of the prior approval by the commission. So, it is the minister's consent for the then prior approval by the commission.

Mrs Hiscutt - A two-part check.

Ms WEBB - That is right. I am asking for an explanation. In the principal act as it currently stands, the minister is involved in the beginning and is not involved at this point. We have now inserted the minister as this point. What changed? Why is that necessary?

Mr GAFFNEY - I am going to throw something into the mix here, which I think semantically is difficult. If you read that the minister has given consent to the granting of the

prior approval by the commissioner, it actually could say that the commissioner has given prior approval and the minister cannot do that until it has happened. When you read that, there is some confusion there. The minister has given written consent to the granting of the prior approval by the commission.

We can say the minister does it prior to the commission giving approval, so before that can happen. On the other hand, we are saying that the minister cannot grant it until the commission has given the prior approval.

Ms Forrest - That is what it says.

Mr GAFFNEY - It is very confusing.

Ms Webb - While the member is on his feet, through you, Madam Chair, the prior approval bit goes back to subsection (2) in the principal act -

Mr GAFFNEY - Yes, 30(2)(a) -

Ms Webb - Which is where they are supposed to notify this thing is going to happen and the commission approves it before it does, so they know it is okay for it to happen.

Mr GAFFNEY - The writing is confusing.

Ms Webb - It is.

Mr GAFFNEY - It is not absolutely clear.

Madam CHAIR - The question is the clause as read stand part of the bill. Is the Leader going to respond any further?

Mrs HISCUTT - No, I think it is as it was before; it is a two-part agreement and that is what has to happen.

Clause 52 agreed to.

Clauses 53 and 54 agreed to.

Clause 55 -
Part 4, Division 1 substituted

Ms RATTRAY - I would like some clarification of clause 55, new subclause (32)(1)(a). It is the first time that we talk about the Roll. I know that there is more clarification around the Roll in clause 83 (69B inserted) because I have had a look at that. However, because it is the first time that we have referred to it in this amendment, and it is way before clause 83, I would like some clarification and some detail about the Roll. It talks about:

> (a) to purchase or obtain ancillary gaming services from persons listed on the Roll;

and then:

(b) to purchase or obtain approved gaming equipment from persons listed on the Roll, venue operators or casino operators;

Some clarification detail around the Roll, please.

Madam CHAIR - I wonder if that is better left to clause 83, because it well described in 83.

Ms Rattray - I am happy to take your advice, Madam Chair.

Mrs HISCUTT - It is in the principal act, at section 34.

Ms Rattray - It is the first time in this amendment bill that we have referred to the Roll; but I will take Madam Chair's advice.

Mrs HISCUTT - I have it here if we wanted to read in now. It is part of the principal act.

Madam CHAIR - We will do it now and we will not need to do it later.

Mrs HISCUTT - Section 34 of the principal act - we are now talking about the principal act and not the bill in front of us.

Authority conferred by listing on the Roll

A person whose name is listed on the Roll is authorized, subject to this Act -

(a) to manufacture, sell or supply gaming machines and gaming machine games of a type approved by the Commission under section 80; and

(b) to manufacture, sell or supply other gaming equipment:

(i) of a type approved by the Commission under section 81, and

(ii) of a type that is required by a minor gaming permit to be supplied to the minor gaming operator by a person listed on the Roll; and

(c) to enter into arrangements with licensed operators and licensed providers to service, repair or maintain gaming equipment through the services of licensed technicians.

That is the Roll.

Madam CHAIR - Member for Nelson, are you moving amendments to this clause?

Ms Webb - Which clause are we doing?

Madam CHAIR - We are moving amendments to clause 55.

Ms Webb - No, I do not believe they are relevant now, because they related to one we dealt with right at the beginning.

Madam CHAIR - That is fine.

Clause 55 agreed to.

Clauses 56, 57 and 58 agreed to.

Clauses 59, 60 and 61 agreed to.

Clause 62 agreed to.

Clause 63 -
Section 40A inserted

Ms WEBB - I have a question on section 40A inserted, about the cost of investigations to be paid by the applicant. I gather the Government is proposing that reasonable costs incurred by the commission in a venue application are to be paid by the applicant.

I wonder if that is new? I presume it may be. What is some detail of that, in terms of the things that might be deemed to be costs incurred by the commission, and what would be reasonable as opposed to not reasonable?

Mrs HISCUTT - Seeking some advice, Madam Chair. Yes, it is new. It is put in there for where the costs may exceed the application fee - if the commission needs to do more investigations, for example, to commission a financial report or fly interstate to investigate something. It is there and it is new, in case the costs exceed the application fee. It is cost recovery.

Ms WEBB - To clarify - for each instance of an application, the commission will determine what costs have been involved in assessing the application and then measure that against the application fee; and anything above that becomes the reasonable costs recovered?

Mrs HISCUTT - It is not as black and white as that; but the commission will form an opinion as to whether some cost recovery measures are necessary.

Clause 63 agreed to.

Clause 64 agreed to.

Clause 65 -
Section 42 substituted

Ms WEBB - I have circulated three amendments on this clause. I am going to move the third one only. The other two related to a matter we dealt with earlier with new clause M, so they are no longer relevant. If I read in the third amendment -

Madam CHAIR - It is the first amendment now.

Ms WEBB - Now the first amendment? Okay.

First amendment
Page 93, same proposed new section 42, subsection (10).

Leave out the subsection.

Insert instead the following subsections:

(10) If, during a licencing period, an application for a venue licence is granted under this section, that venue licence -

(a) is granted for a period -

(i) commencing on the day on which the venue licence takes effect under this section; and

(ii) expiring at the end of that licensing period; and

(b) is in force for such period unless sooner cancelled or surrendered under this Act; and

(c) is granted subject to the conditions, and for the licensed premises, specified in the licence.

(11) For the purposes of subsection (10) -

"**licensing period**", in respect of a venue licence, means -

(a) the period of 20 years commencing on 1 July 2023; and

(b) each subsequent 20 year period commencing on the expiry of the immediately preceding licensing period.

Members, the intent of this amendment is to fix the licencing period of 20 years that applies to venue licences granted under this new model, to the specific licencing period of 1 July 2023 to 1 July 2043, such that any licences granted through that period end on that date. It is to retain an alignment in licence periods under an individual venue licence model, and it is to preserve for our state what we have always had - and that is, an aligned moment in time when the current licencing arrangements relating to this industry becomes due and to be renewed in some sense. Just like the period that we are currently using to contemplate these reforms on 1 July 2023. This means that whoever is in government or in this place at the time, on 1 July 2043, will have this similar opportunity before them because all licences would come due on that same day. This is a reasonable and protective amendment for our state. It preserves for us some of the positives that a single licence had for this state. We have to remember that a single licence had many positives for our state. Elements of the way we provided that licence were problematic and not to our advantage, but elements of it have been protective.

This sense that there is a moment in time at the end of a licence period when industry-wide reforms and regulatory reforms can be contemplated is very much a positive. I seek to preserve that. Doing so meets the objects of this act very well. I believe it meets the object of the licensing, supervision and control element of the objects of the act. It is a long licence period but, at least we know that at the end of that licence period, there will be a regular, opportunity for the contemplation of contemporary reform that was relevant and evidence-based at that time. It meets the object of the act about protecting people from being harmed by gambling. It says that we decide, in our governance of this regulatory space, that we will give ourselves this moment-in-time opportunity on a regular basis at the end of our licensing period.

I also think it meets the third object of the act, which is about the appropriate sharing of returns. Within a licensing period, or if we allow licences to become staggered in their licensing periods, any changes we contemplate to key features like taxation and the financial aspects of our arrangements involves sovereign risk. Sovereign risk is brought into it and that becomes an enormous barrier for any government of the day, whoever they may be, to go about making decisions in the best interests of our state at that time and think about changes or reforms to those financial arrangements relating to this industry and to those licences that are granted.

It meets all objects of this act very well, particularly that final one about appropriate share because it allows future governments to contemplate appropriate share and be able to, in a way unencumbered by sovereign risk, make decisions for our state in our best interests.

If we do not have a provision of this kind, we have inevitably closed the door on that in virtual perpetuity. We discussed this during second reading and I will not go into it in detail here. Members are well aware from our second reading discussion of this extraordinary change we are proposing to make in this bill by removing any future moment-in-time opportunity for our state, such as the one we are presently in.

I believe this amendment is incredibly important to preserve that opportunity for us in the state and for our future state. I do not believe it is disruptive to the bill in the sense that it does not do anything to put a barrier in front of the structural changes occurring. We can still make the structural changes proposed in the bill.

I expect the industry interests to be quite upset about it. Of course they would prefer an arrangement that was very much to their advantage to becoming a virtual 'in perpetuity' licence situation, which is what we contemplate when we stagger licences and have those renewals come into play all over the place. Of course industry would prefer that, but our job is to think about the best interests of our state and how we can give effect to that in this bill.

The licence period for venues of 20 years is a very generous, long licence period. It provides a great deal of certainty to those businesses and this does nothing to remove that. It preserves that. All it does is allow for us to retain this opportunity for future governments and parliament. I encourage members to support this important amendment.

Ms LOVELL - I will be supporting this amendment. I had an amendment drafted that was identical, word for word, to this one so we are absolutely on the same page here, member for Nelson.

This inserts an important provision into the bill that has been identified by a number of members, including the member for Elwick in his second reading contribution. That was the removal of the point in time that we have always had, be it 20 years in the future. It still provides a point in time for a future parliament and a future government to review the situation with gaming. Who knows what that might look like?

I do support it. I know that the industry and businesses are looking for certainty. This still provides significant certainty We are talking about a date 20 years down the track. It provides that moment in time that otherwise would make it very difficult for a future parliament to implement any kind of reform in the future with staggered expiry dates of licences. I am happy to support the amendment.

Mrs HISCUTT - The Government has given this amendment a lot of consideration and we feel that it will not substantially change anything to do with this amendment. The Government is not opposed to this amendment.

Mr GAFFNEY - It is really good to hear that and I am going to put my thoughts on the record anyway. Whether I agree or disagree with the Government's policy where we are heading with this bill, I was going to say I thought this would be very difficult for the Government to take on board and accept. I am pleased to hear the Leader's statement just then because we do not want to hamstring our future parliament in 20 years time. If you think about some of the things that we are looking at, we want that to be contemporary. We are looking potentially at having a high-roller casino in the north or the south, or both.

It has been suggested that the length of the licences is for the length of the machine itself. In some other states it is from seven years to 10 years to 15 years so there is a whole range out there. I am pleased to see that we are allowing future communities and future parliaments the right to make a good and reasonable assessment of the situation and take on board those things that are going to surface between now and then, the different mediums, the different ways that people will gamble, the different impacts that some machines will have.

It is a really sensible place and I am very pleased to see that it has the support of the Labor Party, which is great, and also the support of the Government. I thank the member for Nelson for putting this on the table.

Madam CHAIR - Just be aware of the hour of the night. I do not want to stymie debate but unless there are questions we do not need to labour the point, so to speak.

Mr VALENTINE - Madam Chair, I am not labouring the point. I am basically saying how sensible it is given the fact that technology changes. Who knows what technology is going to be here in 20 years time. It is absolutely essential that we have this opportunity. I fully support the amendment.

Ms RATTRAY - I take on board your comments, Madam Chair, it is not a question, it is a comment. I know that the member for Nelson talked about the industry might not be that accepting of this but I want to make the point that they are part of our community as well. They are part of our state and they contribute to the returns to the state. That seems to get a little bit lost through this debate and I wanted to make that point.

Amendment agreed to.

Clause 65, as amended, agreed to.

Clauses 66 and 67 agreed to.

Clause 68 -
Section 43B substituted

Ms WEBB - I had circulated three amendments, but I will not be moving all three. I will not be moving what had been the first amendment.

Mrs Hiscutt - Did you say you will not be moving the first amendment?

Ms WEBB - No, I will not be. I do not believe it is necessary. I will move what had been the second amendment from what I circulated which I will now read in as the first amendment. Page 95.

First amendment
Page 95, proposed new section 43B, subsection (2).

Leave out paragraph (b).

Insert instead the following paragraph -

(b) If renewed, the renewal takes effect from the day on which the current licence was due to expire.

Members, this is aligned to that idea of alignment of licence periods. When a renewal is applied for regardless of how far away from the expiry date is applied for, it does not take effect until what would have been expiry date of the current licence. It is just to stop the staggering effect that could have come into play if we had allowed venues to be able to apply for renewal well out from the expiry date and have it taken effect from that time of granting a renewal.

I do not need to speak to it in any more detail. It was drafted to give effect to that intent I had to maintain an alignment of licence periods.

Mrs HISCUTT - Would you like me to say something?

Madam CHAIR - We need some response to the member.

Mrs HISCUTT - This is essentially complementary to previous amendments; therefore, the Government will be supporting because it is complementary to what has been already passed.

Amendment agreed to.

Clause 68, as amended, agreed to.

Mrs HISCUTT - Madam Chair, I move that we do report progress.

Leave granted.

Progress reported.

ADJOURNMENT

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I move -

> That on its rising the Council adjourn until 10 a.m. on Thursday18 November 2021.

Members, I thought we would take the opportunity to sit at 10 a.m. tomorrow.

Mr President, before I move the adjournment, I remind members of our personal mobility device bill briefing at 9 a.m. in Committee Room 2.

Mr President, I move that the Council do now adjourn.

The Council adjourned at 10.11 p.m.