

GAMING CONTROL AMENDMENT BILL (NO. 2) 2010

SECOND READING SPEECH

Mr Speaker

The purpose of the *Gaming Control Amendment Bill (No. 2) 2010* is to amend the *Gaming Control Act 1993* to revise certain arrangements that apply to a Tasmanian gaming licence with a betting exchange endorsement. It will also restructure part of the Act to apply to all Tasmanian gaming licence endorsements the special conditions that currently only apply to the holder of a Tasmanian gaming licence with a betting exchange endorsement or totalizator endorsement.

In 2005, Parliament approved a range of amendments to the Gaming Control Act to facilitate the operation of betting exchanges from Tasmania. These amendments inserted the applicable product fee and tax rates in the Act.

Tasmania became the first jurisdiction in Australia to allow betting exchanges and Betfair (Australia) Pty Ltd became operational from 7 February 2006. Since then Betfair has conducted a well regulated and successful operation and in doing so created over 100 ongoing jobs.

Currently, Betfair is required to pay the Government a product levy on all Australian racing events equivalent to 20 per cent of the total amount of its betting exchange commission. The tax rate that applies to a betting exchange operator is 15 per cent of the commission earned on events held in Australia and 10 per cent of the commission on events held outside of Australia. This is irrespective of whether these events are sporting or racing events. The annual licence fee is 350 000 fee units (\$476 000).

In April 2009, the Gaming Control Act was amended to licence TOTE Tasmania and to reduce to zero the tax rates applying to corporate bookmakers.

Mr Speaker, as a consequence of the introduction of a competitive regime to attract corporate bookmakers to Tasmania, Betfair has argued that it is now at a competitive disadvantage because it competes with corporate bookmakers in the racing and wagering segment of the

gaming market. Consequently, Betfair has sought reductions in the tax rates and licence fees applicable to betting exchanges.

Mr Speaker, in February 2010, a non-binding memorandum of understanding was executed with Betfair for the purposes securing a further commitment from Betfair to retain its operations in Tasmania for a further two five-year licence periods commencing from the expiry of Betfair's existing licence on 7 February 2011. In return, the Government agreed to provide a more competitive taxation and licensing fee regime.

In order to formalise the obligations under the MOU, a legally binding Deed between Betfair and the Government has been executed. The proposed Gaming Control Amendment Bill (No. 2) includes the Government's commitments contained in the Deed. As the Deed contains a condition precedent that Parliament enacts the legislation by 2 September 2010, it is imperative that the Bill is passed by this date.

Mr Speaker, the Bill decreases the annual fee payable for a Tasmanian gaming licence with a betting exchange endorsement from 350 000 fee units (\$476 000) to 300 000 fee units (\$408 000) but requires payment of this annual licence fee, where a licence with a betting exchange endorsement is granted or renewed for a five-year period, in three non-refundable instalments.

The first instalment is 900 000 fee units (\$1.2 million) and is payable on the grant or renewal of the licence. The Bill requires two further non-refundable instalments of 300 000 fee units to be paid on the third and fourth anniversary of the grant or renewal of the licence.

Mr Speaker, these arrangements will only apply to a Tasmanian gaming licence with a betting exchange endorsement that is granted or renewed within five years from the commencement of the Bill.

The Bill also abolishes the 20 per cent product levy on betting exchange commission and decreases the tax payable on betting exchange commission to a uniform rate of five per cent.

The current provisions in the Act relating to collection of the product levy have largely become redundant as a result of the amendments that were incorporated into the Gaming Control Act in July 2009, which was in response to the introduction of racefields legislation in other jurisdictions. Such racefields legislation requires Betfair to pay product fees in other jurisdictions in addition to the Tasmanian product levy and had the effect of "double-taxing" Betfair. The amounts credited to Betfair following the 2009 amendments now almost fully offset the product levy and,

accordingly, the component of betting exchange revenue relating to the product levy was removed from the Forward Estimates in the 2009-10 Mid-Year Financial Report.

The Bill also clarifies that only a betting exchange can allow its registered players to accept a lay bet. A “lay bet” is defined as the acceptance of a wager for a contingency not to occur in relation to an animal, a person or a team. This provision will not prevent a corporate bookmaker from lay betting with another licensed operator but it does set the betting exchange model apart from other wagering activities by allowing a betting exchange operator to be the only operator that can accept a “lay bet” from registered players.

Mr Speaker, these changes are necessary to assist in securing a commitment from Betfair to retain its operation and the jobs it has created in Tasmania for a further two five-year licence periods.

Betfair currently employs approximately 130 staff and supports local business in various service roles. Lowering the licence fee and requiring a three year upfront payment will offer the company a financial benefit, while at the same time making any decision for it to leave before then far more commercially challenging.

Subject to Betfair making an application to the Tasmanian Gaming Commission for renewal of its licence for a further two five-year periods, the Deed requires that Betfair do all things reasonably necessary and commercially feasible to source operational labour from within Tasmanian and direct business through its Tasmanian operation.

These changes are not linked to the issue of problem gambling and in fact Betfair has committed to continue working with the Government towards improved player protection measures.

Mr Speaker, the Gaming Control Amendment Bill (No. 2) also includes miscellaneous amendments to the Gaming Control Act to restructure Division 4 of Part 4A of the Act to apply the special conditions that currently only apply to the holder of a Tasmanian gaming licence with a betting exchange endorsement or totalizator endorsement to apply to any holder of a Tasmanian gaming licence.

These existing conditions include the requirement that the holder of a Tasmanian gaming licence with a gaming endorsement have rules in place in respect of a gaming activity. The Commission’s authority to disallow gaming rules where it considers the rules to be: oppressive or unfair; inadequate or incomplete; misleading, inaccurate or poorly

drafted; or unsatisfactory on other grounds will also apply to all gaming endorsements.

The Commission may also instruct a licensed provider not to allow gaming activity on a competition, game or event that it considers is not a fit subject for gaming or wagering.

The licensed provider is prohibited from allowing gaming activity under disallowed rules or where there are no rules. In addition, the licensed provider must not allow gaming activity on contingencies relating to competitions, games or events that are unlawful in Tasmania or that would be unlawful if they were to be held in Tasmania.

Mr Speaker, these provisions, which will be extended to apply to all gaming endorsements, remove the requirement for the Commission to approve rules prior to allowing gaming activity to occur. The disallowance provisions, which currently apply to the holder of a Tasmanian gaming licence with a betting exchange endorsement or totalizator endorsement, are considered a more appropriate way to balance the risk of inappropriate gaming and wagering rules against achieving administrative and operational efficiencies.

The Bill requires, in addition to a totalizator or betting exchange operator, that a licensed provider must provide information to regulatory Agencies if instructed by the Commission for the purposes of ensuring the integrity of a gaming activity or other purpose. It also requires that the wagering funds of registered players must be held in trust and deposited with a Tasmanian branch of an authorised deposit taking institution.

In addition to these general conditions, the Bill maintains the existing special conditions that apply specifically to a Tasmanian gaming licence with a betting exchange endorsement and a Tasmanian gaming licence with a totalizator endorsement.

The Bill also repeals and rescinds redundant and outdated legislation.

Mr Speaker, I move the second reading of this Bill and commend the Bill to the House.