



Western Australia

Casino Legislation Amendment (Burswood Casino) Act 2022

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Casino Legislation Amendment (Burswood Casino) Act 2022

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Western Australia

Casino Legislation Amendment (Burswood Casino) Act 2022

No. 32 of 2022

An Act to amend —

- the *Casino Control Act 1984*; and
- the *Gaming and Wagering Commission Act 1987*.

[Assented to 28 September 2022]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Casino Legislation Amendment (Burswood Casino) Act 2022*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on the day after that day.

Part 2 — *Casino Control Act 1984* amended

3. Act amended

This Part amends the *Casino Control Act 1984*.

4. Section 10 amended

(1) In section 10(1):

- (a) delete “who is an officer of the Commission”;
- (b) delete “any other Act” and insert:

any other written law relating to gaming

(2) In section 10(2) delete “the Crown is also relieved of any liability that it” and insert:

the Commission and the Crown are also relieved of any liability that either of them

Note: The heading to amended section 10 is to read:

Protection from liability

5. Section 21B amended

In section 21B(3)(c) delete “\$100 000.” and insert:

\$100 million.

6. Part IVA inserted

After section 21F insert:

**Part IVA — Remediation of management and
operation of Burswood Casino**

Division 1 — Preliminary

21G. Purpose of Part

- (1) The primary purpose of this Part is to provide a legislative framework for the remediation of the management and operation of the Burswood Casino outlined in the final report of the Perth Casino Royal Commission.
- (2) The framework includes that —
 - (a) there be monitoring of and reporting on the remediation by an independent monitor; and
 - (b) the reporting inform the Commission's advice to the Minister, and the Minister's decision, as to whether any action should be taken under section 21B in relation to the Burswood Casino.

21H. Terms used

- (1) In this Part —

Burswood Casino has the meaning given in the Burswood Island Agreement clause 2;

Burswood Casino licensee means the holder of the casino gaming licence for the Burswood Casino;

Burswood Island Agreement means Agreement as defined in the *Casino (Burswood Island) Agreement Act 1985* section 3;

CEO means the chief executive officer of the Department;

Department means the department of the Public Service assisting in the administration of this Part;

final report of the Perth Casino Royal Commission means the report of the Perth Casino Royal Commission dated 4 March 2022;

Independent Monitor means the person holding the office of Independent Monitor under section 21J;

management and operation of the Burswood Casino means the organisation, management, control and use of the Burswood Casino, including —

- (a) the organisation, management and control of gaming operations at the Burswood Casino; and
- (b) the organisation, management and control of operations (whether of the Burswood Casino licensee or not) that relate to gaming operations at the Burswood Casino;

member of the Independent Monitor's staff means a person whose services are made available under section 21ZG(1);

Perth Casino Royal Commission means the Royal Commission to inquire into and report on the affairs of the Crown Casino Perth and related matters established by commission dated 5 March 2021 and published in the *Gazette* on 12 March 2021;

relevant person, in relation to the Burswood Casino licensee, means —

- (a) a person responsible for the management and operation of the Burswood Casino; and
- (b) a person concerned in or associated with the management and operation of the Burswood

Casino, including a casino key employee or casino employee; and

- (c) an Approved Company as defined in the Burswood Island Agreement clause 2; and
- (d) a close associate (as defined in section 18) of the Burswood Casino licensee; and
- (e) a related body corporate (as defined in the *Corporations Act 2001* (Commonwealth) section 9) of the Burswood Casino licensee or of a person referred to in paragraph (a), (b), (c) or (d);

remediation period has the meaning given in section 21I;

remediation plan means the plan for the remediation of the management and operation of the Burswood Casino approved by the Independent Monitor under section 21N and, where relevant, includes a stage of the plan so approved;

specified, in relation to an instrument, direction, notice or other document under this Part, means specified in that document.

- (2) In this Part, a reference to a claim of confidence or privilege in relation to information is a reference to a claim that —
 - (a) the information is subject to a duty of confidence or secrecy; or
 - (b) the information is the subject of legal professional privilege; or
 - (c) disclosure of the information might tend to incriminate the person making the claim or make them liable to a penalty.

21I. Remediation period

- (1) The remediation period is —
 - (a) the 2-year period commencing on the day on which the *Casino Legislation Amendment (Burswood Casino) Act 2022* section 6 comes into operation; or
 - (b) that period as extended under subsection (2).
- (2) The Minister may extend the remediation period, whether or not it has expired and as many times as the Minister considers is necessary.
- (3) Notice of extension of the remediation period must be —
 - (a) given to the Burswood Casino licensee; and
 - (b) published on the Department’s website.

Division 2 — Independent Monitor

21J. Appointment

- (1) An office called the Independent Monitor is established.
- (2) The Minister may appoint an individual to the office.
- (3) The Independent Monitor holds office on the terms and conditions of appointment determined by the Minister.
- (4) The Independent Monitor is entitled to the remuneration determined by the Minister on the recommendation of the Public Sector Commissioner.
- (5) The Independent Monitor holds office for the term specified in the instrument of appointment and is eligible for reappointment.

- (6) The Independent Monitor may resign from office by notice in writing given to the Minister.

21K. Functions

- (1) The functions of the Independent Monitor are —
- (a) to consult on and advise in relation to the content and preparation of a plan for the remediation of the management and operation of the Burswood Casino;
 - (b) to assess and approve a proposed remediation plan and amendments to the remediation plan;
 - (c) to monitor and report on progress in the preparation and approval of the remediation plan and amendments to it;
 - (d) to monitor and report on the suitability and efficacy of the remediation plan;
 - (e) to monitor and report on the implementation of the remediation plan;
 - (f) to monitor and report on the efficacy of the remediation of the management and operation of the Burswood Casino;
 - (g) the other functions of the Independent Monitor under this Part;
 - (h) any other function of the Independent Monitor specified in the Independent Monitor's instrument of appointment.
- (2) A function specified under subsection (1)(h) cannot be inconsistent with this Part.

21L. Powers

The Independent Monitor has all of the powers necessary to perform their functions.

21M. Delegation

- (1) The Independent Monitor may delegate to a member of the Independent Monitor's staff any power or duty of the Independent Monitor under another provision of this Part.
- (2) The delegation must be in writing signed by the Independent Monitor.
- (3) A person to whom a power or duty is delegated under this section cannot delegate that power or duty.
- (4) A person exercising or performing a power or duty that has been delegated to the person under this section is taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- (5) Nothing in this section limits the ability of the Independent Monitor to perform a function through an officer or agent.

Division 3 — Remediation plans

21N. Approval of remediation plan

- (1) The Independent Monitor may approve a proposed remediation plan submitted to the Independent Monitor by the Burswood Casino licensee if satisfied that implementation of the plan is likely to achieve, or assist in achieving, the remediation of the management and operation of the Burswood Casino outlined in the final report of the Perth Casino Royal Commission.
- (2) The remediation plan may be prepared and approved in stages.
- (3) The Independent Monitor may approve amendments to the remediation plan that are submitted to the Independent Monitor by the Burswood Casino licensee

if satisfied as described in subsection (1) in relation to the plan as it would be amended.

- (4) Once approved, the Independent Monitor must give copies of the remediation plan and any amendments to the Minister and the Commission.

21O. Independent Monitor may give directions about remediation plan

- (1) The Independent Monitor may give directions to the Burswood Casino licensee relating to the performance of the Independent Monitor's functions under section 21K(1)(a) and (b).

Note for this subsection:

Section 33(1) requires that the licensee comply with the direction.

- (2) Without limiting subsection (1), the Independent Monitor may, in a direction, do 1 or more of the following —
 - (a) require the Burswood Casino licensee to submit to the Independent Monitor a proposed remediation plan or an amendment to the remediation plan;
 - (b) require that the plan or amendment cover specified matters, including in a specified way;
 - (c) require that the plan or amendment be submitted on or before a specified day.

21P. Reports by Independent Monitor

- (1) During the remediation period the Independent Monitor must give an interim report to the Minister and the Commission —
 - (a) at least every 3 months; and
 - (b) as requested by the Minister.

- (2) An interim report must, where relevant, cover —
 - (a) progress in the preparation and approval of the remediation plan; and
 - (b) the suitability and efficacy of the remediation plan; and
 - (c) implementation of the remediation plan; and
 - (d) the efficacy of the remediation of the management and operation of the Burswood Casino; and
 - (e) the number and nature of directions given under section 21O or 21T; and
 - (f) the extent of cooperation with the Independent Monitor, in the performance of the Independent Monitor's functions, by the Burswood Casino licensee and any other relevant person; and
 - (g) any other related matter the Minister requests be covered by the report; and
 - (h) any other matter that the Independent Monitor considers relevant.
- (3) At the end of the remediation period the Independent Monitor must give a final report to the Minister and the Commission.
- (4) The final report must cover —
 - (a) the suitability and efficacy of the remediation plan over the course of the remediation period; and
 - (b) implementation of the remediation plan; and
 - (c) the efficacy of the remediation of the management and operation of the Burswood Casino; and
 - (d) the number and nature of directions given under section 21O or 21T; and

- (e) the extent of cooperation with the Independent Monitor, in the performance of the Independent Monitor's functions, by the Burswood Casino licensee and any other relevant person; and
- (f) any other related matter the Minister requests be covered by the report; and
- (g) any other matter that the Independent Monitor considers relevant.

21Q. Use of Independent Monitor's reports

- (1) On receiving a report of the Independent Monitor under section 21P, the Commission may, and must on receiving the final report, report to the Minister and make recommendations as to any action that the Commission considers should be taken under section 21B.
- (2) In making a report and recommendations to the Minister under subsection (1), the Commission is not limited to the matters covered by the Independent Monitor's report or bound by any opinion in it.
- (3) A report and recommendations made under subsection (1) are, for the purposes of section 21B, taken to be a report and recommendations made under section 21A(4).
- (4) Nothing in this section or Part prevents the Commission from using information in a report under section 21P for the performance of its other functions under this Act or any other written law relating to gaming.

21R. Publishing Independent Monitor's reports

- (1) The Minister may direct that a report of the Independent Monitor under section 21P be published on the Department's website.

- (2) A report that includes information in respect of which there is a claim, in good faith, of confidence or privilege must not be published under this section unless the information is redacted.

Division 4 — Monitoring powers

21S. Powers to obtain information

- (1) In this section —
- relevant information* means information that, in the Independent Monitor's opinion, is or is likely to be relevant to the performance of the Independent Monitor's functions;
- relevant record* means a record that, in the Independent Monitor's opinion, is or is likely to include relevant information (however compiled, recorded or stored).
- (2) For the purposes of the performance of the Independent Monitor's functions, the Independent Monitor may require the Burswood Casino licensee or any other relevant person, by notice given to the person, to do 1 or more of the following —
- (a) give the Independent Monitor a statement signed by the person or, if the person is a body corporate, by an officer of the body corporate, containing the specified relevant information;
 - (b) give to the Independent Monitor the specified relevant records;
 - (c) procure, and give to the Independent Monitor, a report prepared by an independent person on a specified matter relating to the management and operation of the Burswood Casino.
- (3) A notice under subsection (2) must specify the time and manner for giving the information, records or report.

- (4) A person given a notice under subsection (2) must comply with it.

21T. Independent Monitor may give directions about obtaining information

- (1) If a person given a notice under section 21S(2) does not comply with the notice, the Independent Monitor may give the person a direction requiring them to comply with the notice within a specified time.

Note for this subsection:

Section 33(1) requires that the person comply with the direction.

- (2) The Independent Monitor may give the direction despite any claim of confidence or privilege.

Note for this subsection:

See section 21W(1) in relation to legal professional privilege.

- (3) The direction may modify a requirement in the notice, including by requiring that a record or report that includes information the subject of legal professional privilege be given with that information redacted.
- (4) A direction may include a requirement that a person making a claim of legal professional privilege procure, and give to the Independent Monitor, independent legal advice as to the basis of the claim.
- (5) Compliance with a requirement described in subsection (4) is not a waiver of any legal professional privilege that applies.

21U. Powers of and on entry

- (1) For the purposes of the performance of the Independent Monitor's functions, the Independent Monitor may at

any time enter a place that is part of the Burswood Casino.

- (2) An entry may be made under subsection (1) with or without the consent of the person in charge or control of the place.
- (3) On entering a place under this section the Independent Monitor may do any 1 or more of the following —
 - (a) inspect the place;
 - (b) generally make any investigation or inquiry that is relevant to the performance of the Independent Monitor's functions;
 - (c) require a person at the place to give information or answer a question that, in the opinion of the Independent Monitor, is or is likely to be relevant to the performance of the Independent Monitor's functions;
 - (d) require a person at the place to produce a record or other thing in the possession or under the control of the person that, in the opinion of the Independent Monitor, is or is likely to be relevant to the performance of the Independent Monitor's functions;
 - (e) examine any record or thing, including a record containing confidential information, that, in the opinion of the Independent Monitor, is or is likely to be relevant to the performance of the Independent Monitor's functions;
 - (f) make copies of records or any part of them and, for that purpose, take away and retain any of those records or any part of them for any time that may be reasonably necessary;
 - (g) require the person apparently in charge or control of the place to provide the Independent

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Monitor with assistance and facilities reasonably necessary to enable the Independent Monitor to exercise their powers under this section.

- (4) The powers under this section may be exercised by the Independent Monitor or by a member of the Independent Monitor's staff.
- (5) The Independent Monitor or a member of the Independent Monitor's staff (the *monitor*) may, when entering a place under this section, be accompanied by 1 or more persons to assist the monitor if they consider the assistance is necessary.
- (6) An assistant —
 - (a) may do the things at the place and in the manner that the monitor reasonably requires to assist the monitor to exercise their powers under this section; but
 - (b) must not do anything that the monitor does not have power to do.
- (7) Anything lawfully done by an assistant is taken to have been done by the monitor.

21V. Attendance at board meetings

- (1) The Independent Monitor may attend a meeting of the governing body (however described) of the Burswood Casino licensee or any other relevant person.
- (2) The Independent Monitor may do so in person, remotely or by a nominated person attending (in person or remotely) on the Independent Monitor's behalf.
- (3) The Independent Monitor, or nominated person, is, for the purposes of this section, entitled to all information made available to any member of the governing body.

- (4) This section does not give the Independent Monitor or a nominated person a right to vote, and does not make them a member of the governing body.

21W. Compliance with requirements under s. 21S, 21T or 21U

- (1) Sections 21S, 21T and 21U do not prevent a person from refusing to give information or answer a question, or refusing to give or produce a thing, on the basis that it is or contains information the subject of legal professional privilege.
- (2) If information or an answer is given, or a thing is given or produced, in good faith in compliance with a requirement under section 21S, 21T or 21U(3) —
- (a) no civil or criminal liability is incurred as a result of the compliance; and
 - (b) the compliance is not to be regarded as a breach of any duty of confidence or secrecy; and
 - (c) the compliance is not to be regarded as a breach of professional ethics or standards or as unprofessional conduct.

21X. Offences

- (1) A person must not, without reasonable excuse, proof of which is on the person, hinder or obstruct the Independent Monitor or another person in exercising, or assisting in the exercise of, the powers under section 21U.

Penalty for this subsection: a fine of \$50 000.

- (2) A person must not, without reasonable excuse, proof of which is on the person, fail to comply with a

s. 6

requirement under section 21U(3) to give information or answer a question or produce a thing.

Penalty for this subsection: a fine of \$50 000.

- (3) A person must not, without reasonable excuse, proof of which is on the person, fail to provide assistance or facilities as required under section 21U(3).

Penalty for this subsection: a fine of \$50 000.

- (4) Subsection (2) or (3) (as is relevant) does not apply unless, when the Independent Monitor, member of the Independent Monitor's staff or person assisting them makes the requirement, they inform the person that a failure to comply with the requirement may constitute an offence.

- (5) A person must not, in purporting to comply with a requirement under section 21S, 21T or 21U(3) to give information or answer a question, give information or an answer that the person knows, or ought reasonably to know, is false or misleading in a material particular.

Penalty for this subsection: a fine of \$50 000.

- (6) A person must not, in purporting to comply with a requirement under section 21S, 21T or 21U(3) to give or produce a thing, give or produce a thing that the person knows, or ought reasonably to know, is false or misleading in a material particular —

- (a) without indicating that it is false or misleading and, to the extent the person can, how it is false or misleading; and
- (b) if the person has or can reasonably obtain the correct information — without providing the correct information.

Penalty for this subsection: a fine of \$50 000.

- (7) It is enough for a prosecution notice lodged against a person for an offence under subsection (5) or (6) to state —
- (a) that the information, answer or thing was false or misleading to the person's knowledge without stating which; or
 - (b) that the person ought reasonably to have known that the information, answer or thing was false or misleading without stating which.

Division 5 — Miscellaneous

21Y. Protection of information

- (1) A person must not, directly or indirectly, record, use or disclose information obtained because of a function the person has or had under this Part, except as permitted under subsection (2).

Penalty for this subsection: a fine of \$50 000.

- (2) The person may record, use or disclose the information —
- (a) for the purpose of performing a function under this Part; or
 - (b) to the Minister or the Commission; or
 - (c) as required under this Act or another written law; or
 - (d) to a court or person or body acting judicially in the course of proceedings before the court, person or body; or
 - (e) under an order of a court or person or body acting judicially; or
 - (f) for the purposes of investigating a suspected offence or the conduct of proceedings against a person for an offence.

21Z. Information sharing

- (1) The Commission and its officers may record, use and disclose information that the Independent Monitor discloses to the Commission under section 21Y(2) for the purpose of performing a function under this Act or any other written law relating to gaming.
- (2) The Commission may disclose to the Independent Monitor information obtained because of a function a person has or had under this Act or any other written law relating to gaming.
- (3) Section 21Y applies, in relation to information disclosed under subsection (2), to the Independent Monitor as if the information had been obtained because of a function under this Part.
- (4) For the purposes of the *Gaming and Wagering Commission Act 1987* section 20(3), the disclosure of information under subsection (2) is taken to be a function performed in connection with that Act.
- (5) Once the Independent Monitor goes out of office because the performance of their functions is complete, the records of the Independent Monitor become the records of the Commission, and the Commission and its officers may record, use and disclose the information in those records for the purpose of performing a function under this Act or any other written law relating to gaming.

21ZA. Cost recovery

- (1) The CEO may, by notice, require the Burswood Casino licensee to pay to the CEO an amount determined by the CEO, being an amount that, together with all other

amounts paid or payable under this section, does not exceed the reasonable costs and expenses relating to —

- (a) the appointment of the Independent Monitor;
and
 - (b) the performance of the Independent Monitor's functions under this Part.
- (2) The CEO may give a notice under subsection (1) to the Burswood Casino licensee —
- (a) during the remediation period — at intervals of between 3 and 6 months; and
 - (b) following the expiry of the remediation period — as required.
- (3) A notice under subsection (1) must set out —
- (a) the amount to be paid by the Burswood Casino licensee in respect of the period to which the notice relates; and
 - (b) how the amount was determined; and
 - (c) when and how the amount must be paid to the CEO.
- (4) Without limiting subsection (1), the reasonable costs and expenses referred to include —
- (a) remuneration of the Independent Monitor; and
 - (b) costs and expenses of the Department under section 21ZG; and
 - (c) costs and expenses of the Department in acquiring services, including consultancy and advice, for the purposes of the performance of the Independent Monitor's functions; and
 - (d) costs and expenses of the Department in relation to the appointment of the Independent Monitor, including any incurred before the day on which the *Casino Legislation Amendment*

(Burswood Casino) Act 2022 section 6 comes into operation.

21ZB. Interest on unpaid amounts

- (1) If the Burswood Casino licensee does not pay an amount under section 21ZA in full by the due date, interest on the amount outstanding is payable at the prescribed rate.
- (2) The prescribed rate for an amount outstanding is the interest rate that is 3% higher than the cash rate target, as determined and published by the Reserve Bank of Australia, in effect on the 1st day on which the amount becomes outstanding.
- (3) Interest does not accrue on interest that is payable under subsection (1).

21ZC. Recovery of unpaid amounts

- (1) The CEO may recover an amount outstanding under section 21ZA, together with any interest payable under section 21ZB, from the Burswood Casino licensee, as a debt in a court of competent jurisdiction.
- (2) The CEO may, in a certificate signed by the CEO —
 - (a) specify an amount as being outstanding under section 21ZA; and
 - (b) specify an amount as being interest payable under section 21ZB; and
 - (c) state that the specified amounts are unpaid.
- (3) In proceedings under subsection (1), a certificate is, without proof of the appointment of the CEO or of the authenticity of the signature, sufficient evidence of the matters specified or stated.

21ZD. Minister may direct Commission in relation to Burswood Casino and Royal Commission

- (1) The Minister may give directions in writing to the Commission about the performance of its functions in relation to the Burswood Casino, either generally or in relation to a particular matter, and the Commission must give effect to the direction.
- (2) A direction under subsection (1) must relate to the recommendations in the final report of the Perth Casino Royal Commission.
- (3) This section does not limit the Minister's power to direct the Commission, including in relation to the Burswood Casino, under the *Gaming and Wagering Commission Act 1987*.
- (4) The Minister must cause the text of a direction under subsection (1) to be laid before each House of Parliament within 12 sitting days of the House after the day on which the direction is given.
- (5) The text of a direction under subsection (1) must be included in the annual report submitted by the accountable authority of the Commission under the *Financial Management Act 2006* Part 5.

21ZE. Notices and directions under this Part

- (1) A notice or direction given under this Part by the Independent Monitor or the CEO must be in writing signed by the Independent Monitor or CEO (as is relevant).
- (2) A notice or direction under this Part may be given by electronic means, and in that case, the requirement for a signature may be satisfied by an electronic signature.

- (3) A notice or direction given by electronic means is taken to have been given, unless there is indication of a malfunction in transmission, on the day on which the notice or direction is sent, if sent before 5 pm on a business day, otherwise on the next business day.
- (4) In subsection (3) —
business day means a day other than a Saturday, Sunday or public holiday.

21ZF. Prohibition on Independent Monitor, staff and agents gaming at Burswood Casino

- (1) The Independent Monitor must not participate in any game in the Burswood Casino.
Penalty for this subsection: a fine of \$20 000.
- (2) A person who is a member of the Independent Monitor's staff or an agent of the Independent Monitor must not participate in any game in the Burswood Casino.
Penalty for this subsection: a fine of \$10 000.
- (3) In subsection (2) —
agent, of the Independent Monitor, means a person acting on behalf of the Independent Monitor or under engagement for the purposes of the performance of the Independent Monitor's functions.

21ZG. Use of Department's staff and facilities

- (1) The Independent Monitor may by arrangement with the CEO, make use, either full-time or part-time, of the services of any officer or employee of the Department.
- (2) The Independent Monitor may, by arrangement with the CEO, make use of any facilities of the Department.

- (3) An arrangement under subsection (1) or (2) must be made on terms agreed to by the parties.

21ZH. ID cards for Independent Monitor and staff

- (1) The Chief Casino Officer must give the Independent Monitor and each member of the Independent Monitor's staff a card (an *ID card*) that includes —
- (a) a photograph of the person; and
 - (b) the person's name; and
 - (c) a statement that the person is the Independent Monitor or a member of the Independent Monitor's staff (as is relevant).
- (2) A person (that is, the Independent Monitor or a member of the Independent Monitor's staff) must, when exercising or proposing to exercise a power under section 21U, produce their ID card if asked to do so, and, if unable to do so, must not exercise or continue to exercise the power.
- (3) In proceedings under this Act, an ID card purporting to be issued by the Chief Casino Officer under this section is sufficient evidence that the holder of the card is the Independent Monitor or a member of the Independent Monitor's staff (as is relevant), unless there is evidence to the contrary.

7. Section 24 amended

- (1) Before section 24(1) insert:

- (1AA) In this section —
management and operation of a casino means the organisation, management, control and use of the casino, including —

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- (a) the organisation, management and control of gaming operations at the casino; and
 - (b) the organisation, management and control of operations (whether of the casino licensee or not) that relate to gaming operations at the casino.

- (2) In section 24(1) delete “with respect to the system of internal controls and administrative and accounting procedures that apply to the gaming operations of the casino licensee.” and insert:

about the management and operation of the casino.

- (3) In section 24(1c) delete “The controls” and insert:

Controls

- (4) In section 24(2) delete “The Commission” and insert:

Without limiting subsection (1), the Commission

- (5) In section 24(3):
 - (a) delete “in accordance with” and insert:

to the licensee under

- (b) delete the passage that begins with “and is not contravened” and continues to the end of the subsection and insert:

and is not contravened by the following persons —

- (a) a person responsible for the management and operation of the casino;
- (b) any other person acting in relation to the management and operation of the casino as an employee, agent or otherwise on behalf of, or subject to the control of, the casino licensee.

8. Section 33 replaced

Delete section 33 and insert:

33. Contravention of directions

- (1) A person given a direction under this Act must comply with it.

Penalty for this subsection:

- (a) for an individual, a fine of \$100 000;
- (b) for a body corporate, a fine of \$250 000.

- (2) If a direction under this Act is given to a casino licensee under section 24, a person to whom or which section 24(3) refers in relation to the direction must comply with the direction.

Penalty for this subsection:

- (a) for an individual, a fine of \$100 000;
- (b) for a body corporate, a fine of \$250 000.

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- (3) It is a defence to a charge of an offence under subsection (1) or (2) for the person charged to prove that they had a reasonable excuse for failing to comply with the direction.

**Part 3 — *Gaming and Wagering Commission Act 1987*
amended**

9. Act amended

This Part amends the *Gaming and Wagering Commission Act 1987*.

10. Section 6 amended

- (1) In section 6(3) delete “received, and where advice is received from the Commission the Minister is not bound to act on or give effect to it.” and insert:

received.

- (2) After section 6(3) insert:

- (3A) Where advice (including recommendations) is received from the Commission, whether or not at the request or direction of the Minister, the Minister is not bound to act on or give effect to it.

11. Section 12 amended

- (1) In section 12(1):

- (a) delete paragraph (a) and insert:

(a) the chairperson, appointed by the Minister; and

- (b) in paragraph (b) delete “members” and insert:

other members,

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- (2) In section 12(2) delete “subsection (1)(b)” and insert:

subsection (1)

- (3) After section 12(2) insert:

(2A) The members of the Commission must select one of their number to be the deputy chairperson.

(2B) If the chairperson is unable to act because of absence or incapacity, or the office of chairperson is vacant, the deputy chairperson must act in the chairperson’s place.

- (4) Delete section 12(4)(a).

- (5) In section 12(5) delete “any deputy of the” and insert:

the deputy

- (6) After section 12(5) insert:

(5A) Subject to this Act, the chairperson holds office for the period, not exceeding 5 years, specified in their instrument of appointment, and is eligible for reappointment.

- (7) In section 12(6) delete “other than the ex officio member shall hold” and insert:

appointed under subsection (1)(b) holds

- (8) In section 12(7) delete “an appointed member” and insert:
- a member appointed under subsection (1)(b)
- (9) In section 12(8)(a) after “both a member” insert:
- appointed under subsection (1)(b)
- (10) Delete section 12(10) and insert:
- (10) An act or omission of a person acting in place of another under this section cannot be questioned on the ground that the occasion for acting had not arisen or had ceased.
- (11) In section 12(11)(d) delete “being an appointed member,”.
- (12) After section 12(13) insert:
- (14) Until a person is appointed to the office of chairperson under subsection (1), as amended by the *Casino Legislation Amendment (Burswood Casino) Act 2022* section 11, the chief executive officer of the Department is, ex officio, the chairperson of the Commission.

