

WESTERN AUSTRALIA

ACTS AMENDMENT (CASINO CONTROL) ACT

No. 44 of 1987

AN ACT to amend the *Casino (Burswood Island) Agreement Act 1985*, the *Casino Control Act 1984* and the *Liquor Act 1970*.

[Assented to 22 September 1987.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY

Short title

1. This Act may be cited as the *Acts Amendment (Casino Control) Act 1987*.

Commencement

2. This Act shall be deemed to have come into operation on 13 September 1987.

PART II—CASINO (BURSWOOD ISLAND) AGREEMENT ACT 1985

Principal Act

3. In this Part the *Casino (Burswood Island) Agreement Act 1985** is referred to as the principal Act.

[*Act No. 9 of 1985.]

Section 3 amended

4. Section 3 of the principal Act is amended—

(a) in the definition of “the Agreement” by—

(i) deleting “the Schedule” and substituting the following—

“ Schedule 1 ”;

(ii) inserting before “includes that Agreement” the following—

“ , except in section 4 (1) and (2), ”; and

(iii) deleting “altered from time to time in accordance with its provisions;” and substituting the following—

“ altered—

(a) from time to time in accordance with its provisions; and

(b) by the Supplementary Agreement; ”;

(b) in the definition of “the Resort Lands” by deleting “Agreement.” and substituting the following—

“ Agreement; ”; and

- (c) by inserting after the definition of “the Resort Lands” the following definition—

“ “the Supplementary Agreement” means the Supplementary Agreement, a copy of which is set out in Schedule 2. ”.

Section 4 amended

5. Section 4 of the principal Act is amended by inserting after subsection (2) the following subsection—

“ (3) Without limiting or otherwise affecting the application of the *Government Agreements Act 1979*, the Agreement shall operate and take effect notwithstanding any other Act or law. ”.

Section 4A inserted

6. The principal Act is amended by inserting after section 4 the following section—

Supplementary Agreement ratified
and implementation authorized

“ 4A. (1) The Supplementary Agreement is hereby ratified and its implementation is hereby authorized.

(2) Without limiting or otherwise affecting the application of the *Government Agreements Act 1979*, the Supplementary Agreement shall operate and take effect notwithstanding any other Act or law. ”.

Section 7 amended

7. Section 7 of the principal Act is amended—

- (a) in subsection (1) by inserting after “in the Scheme” the following—

“ but subject to any order made under subsection (2b) ”;

- (b) in subsection (2) by inserting after “are situated do not” the following—

“ , subject to any order made under subsection (2b), ”;

(c) by inserting after subsection (2) the following subsections—

“ (2a) Whenever any land ceases to form part of the Site by virtue of an order made under section 21F (1b) of the *Casino Control Act 1984*, subsections (1) and (2) do not apply to or in relation to that land and that land is reserved under the Scheme for “Public Purposes—Special Use”.

(2b) The Minister may, on the recommendation of the Casino Control Committee established by the *Casino Control Act 1984*, by order declare that subsections (1) and (2) do not apply to or in relation to such part of the Resort Site as is specified in that order, and that order has effect according to its tenor. ”;

and

(d) by repealing subsection (3) and substituting the following subsections—

“ (3) An order made under subsection (2b) is subsidiary legislation within the meaning of the *Interpretation Act 1984*.

(4) In this section—

“Scheme” has the meaning given by section 6 of the *Metropolitan Region Town Planning Scheme Act 1959*;

“the Resort Site” and “the Site” have the respective meanings given by the Agreement. ”.

Schedule amended

8. The Schedule to the principal Act is amended by deleting “THE SCHEDULE.” and substituting the following—

“ SCHEDULE 1. ”.

Schedule 2 added

9. The principal Act is amended by adding after the end thereof the following Schedule—

“ **SCHEDULE 2** **(Section 3)**

SUPPLEMENTARY AGREEMENT

THIS AGREEMENT made this 14th day of September 1987 **BETWEEN:**

THE HONOURABLE PAMELA ANNE BEGGS J.P. M.L.A. the Minister of the Crown for the time being charged with the administration of the Control Act acting for and on behalf of the State of Western Australia and its instrumentalities from time to time (“the State”) of the first part;

AND

WEST AUSTRALIAN TRUSTEES LIMITED of 135 St. Georges Terrace Perth in the State of Western Australia as trustee of the Burswood Property Trust (“the Trustee”) of the second part;

AND

BURSWOOD MANAGEMENT LIMITED of 40 The Esplanade Perth in the State of Western Australia as manager of the Burswood Property Trust (“the Manager”) of the third part.

WHEREAS:

- A. The State, the Trustee and the Manager are parties to an agreement dated 20 February 1985 ratified by and scheduled to the Casino (Burswood Island) Agreement Act 1985 (“the Principal Agreement”).
- B. The parties have agreed that subject as hereinafter provided the Principal Agreement should be amended.

NOW IT IS HEREBY AGREED AS FOLLOWS:

1. Words and expressions defined in the Principal Agreement when used in this Agreement have, unless the context otherwise requires, the same meanings as are ascribed to them in the Principal Agreement and the provisions of clause 2 of the Principal Agreement as to the interpretation thereof shall apply to this Agreement.
2. (1) The State shall introduce and sponsor a Bill in the Parliament of Western Australia to ratify this Agreement and endeavour to secure its passage as an Act.
- (2) The following provisions of this Agreement shall be of no force or effect if the Bill referred to in sub-clause (1) is not passed as an Act on or before 31 October 1987.

3. The Principal Agreement is hereby amended:—

- (A) by deleting from clause 2 the definitions “this Agreement”, “Burswood Casino”, “Control Act”, “Resort Complex”, “Resort Site”, “Site” and “Trust Deed” and inserting the following definitions:—

“this Agreement” means this Agreement as amended from time to time, whether in accordance with clause 5 or otherwise, and includes any schedule or annexure hereto;

“Burswood Casino” means that area in the Resort Complex identified in the Drawings as the area to constitute the casino and includes the area in which money counting, surveillance, storage and other activities relating to the conduct and playing of Games are carried on or, if and when the area to which the Burswood Casino Licence relates is fixed pursuant to section 21 (4a) of the Control Act, the area so fixed as thereafter altered from time to time in accordance with that section;

“Control Act” means the *Casino Control Act 1984*;

“Resort Complex” means the hotel, convention centre/theatre restaurant, exhibition centre, recreation and other facilities and the Burswood Casino established or to be established on the Site pursuant to and in accordance with the provisions of this Agreement and includes, if and when constructed, Stage 2 but does not include, on and from the date specified in an order made under section 21F (1b) of the Control Act, any of the foregoing which are by the order excluded from the operation of this Agreement;

“Resort Site” means that part of Burswood Island as is shown bordered red on Lands and Surveys Miscellaneous Plan 1512 but does not include the Site or any land which ceases to be part of the Site by virtue of an order made under section 21F (1b) of the Control Act;

“Site” means Swan Locations 10661 and 10662 as surveyed and shown on registered Lands and Surveys Original Plan 16284 but does not include, on and from the date specified in an order made under section 21F (1b) of the Control Act, any part of that land which is by the order excluded from the operation of this Agreement;

“Trust Deed” means the deed dated 20 February 1985 made between the Trustee and the Manager constituting the Burswood Property Trust as amended consolidated and replaced by a deed dated 18 April 1985 made between the Trustee and the Manager and includes such last mentioned deed as thereafter from time to time altered or amended with the prior approval of the Minister;

- (B) by deleting clause 13 and substituting the following clause:—

13. (1) If the Trustee shall resolve to proceed with Stage 2 or to carry out any other development of the Site the Trustee shall:—

(a) forthwith notify the State of such resolution; and

(b) in the case of any such other development, submit to the Minister a proposal in reasonable detail, and before proceeding, obtain the consent of the Minister, in relation thereto.

- (2) The provisions of clauses 7, 9, 10 and 11 shall, with necessary modifications, apply in relation to the construction, Fit-Out and Commissioning of Stage 2 or any other development referred to in sub-clause (1).

(C) by deleting clause 20 and substituting the following clause:—

20. (1) The Committee or the Committee's Nominated Representative shall be entitled to attend and to speak at any meeting of the Burswood Property Trust or the Manager as though it or he were a unitholder of the Trust or a director of the Manager but nothing contained in this clause shall confer on the Committee or the Committee's Nominated Representative a right to vote.

- (2) The Trustee and the Manager shall deliver to the Committee a copy of all notices that are forwarded to unitholders or directors of such meetings in the same manner and at the same time as such notices are forwarded to unitholders or directors as the case may be.

(D) by adding after paragraph (a) of sub-clause 24 (1) the following paragraph:—

- (aa) if pursuant to an order made under section 21F (1b) of the Control Act the hotel the subject of the licence referred to in paragraph (a) is excluded from the operation of this Agreement, 1 casino liquor licence;

(E) by deleting sub-clauses (1) and (2) of clause 25 and substituting the following sub-clauses:—

- (1) The Trustee shall not except in accordance with the provisions of the Control Act:—

(a) assign, mortgage, charge or otherwise encumber:—

(i) the Burswood Casino Licence;

(ii) the Site or the Resort Complex or any part of either;

(iii) its rights and benefits under this Agreement;

(b) dispose of any part of the Resort Complex or the Site.

- (2) In sub-clause (1) "dispose of" has the meaning ascribed to that expression by section 21F (8) of the Control Act.

AS WITNESS the execution of this Agreement by or on behalf of the parties hereto the day and year first hereinbefore written.

SIGNED by THE HONOURABLE }
 PAMELA ANNE BEGGS J.P. M.L.A. }
 for and on behalf of the State of Western }
 Australia in the presence of: }

P. A. BEGGS.

Section 21 amended

12. Section 21 of the principal Act is amended by inserting after subsection (4) the following subsections—

“ (4a) Subject to subsection (4b), the Committee may with the approval of the Minister by notice published in the *Gazette*—

- (a) fix the area to which a casino gaming licence relates; or
- (b) alter an area fixed under this subsection.

(4b) The Committee shall not, without the consent of the relevant casino licensee, reduce under subsection (4a) the area to which a casino gaming licence relates. ”.

Section 21F amended

13. Section 21F of the principal Act is amended—

(a) by inserting after subsection (1) the following subsections—

“ (1a) A casino licensee shall not dispose of any part of the relevant casino complex to another person unless the other person is approved by the Minister on the recommendation of the Committee.

(1b) The Minister may, on the disposition of part of a casino complex to a person approved under subsection (1a)—

- (a) release the relevant casino licensee from its obligations under the relevant casino complex agreement in respect of that part; and
- (b) by order declare that—
 - (i) the relevant casino complex agreement does not apply to that part; and
 - (ii) that part ceases to form part of the casino complex,

which order has effect according to its tenor.

(1c) An order made under subsection (1b) is subsidiary legislation within the meaning of the *Interpretation Act 1984*. ”;

(b) in subsection (7) by inserting before “or any assignment” the following—

“ or any disposition ”; and

(c) in subsection (8) by inserting before the definition of “receiver” the following definition—

“ “dispose of” includes dispose of any estate or interest by sale, assignment, transfer, lease or licence; ”.

Section 27 amended

14. Section 27 of the principal Act is amended—

(a) in subsection (1) by—

(i) inserting after “casino licensee” the following—

“ and any other person concerned in the organization or management of the gaming operations of the casino concerned ”; and

(ii) deleting “the licensed casino concerned.” and substituting the following—

“ that casino, unless subsection (4) applies. ”;

(b) by repealing subsection (3), except for the penalty provision, and substituting the following—

“ (3) A person under the age of 18 years who is not a person to whom subsection (4) applies shall not enter or remain in a licensed casino. ”; and

(c) by inserting after subsection (3) the following subsection—

“ (4) This subsection applies to a person under the age of 18 years who enters or remains in the licensed casino concerned for the purpose only of—

(a) employment in connection with the provision of amenities ancillary to the gaming therein; or

(b) obtaining a meal, if that person is accompanied by another person who is over the age of 18 years and is—

(i) the spouse or parent of;

(ii) a person *in loco parentis* to; or

(iii) the guardian of,

the person under the age of 18 years,

and the person under the age of 18 years does not participate in gaming in that licensed casino. ”.

PART IV—LIQUOR ACT 1970

Principal Act

15. In this Part the *Liquor Act 1970** is referred to as the principal Act.

[*Reprinted as at 30 October 1986 and amended by Acts Nos. 97 of 1986 and 34 of 1987.]

Section 7 amended

16. Section 7 of the principal Act is amended in subsection (1) by inserting after the definition of “casino licensee” the following definition—

“ “casino liquor licence” means licence referred to in section 26A; ”.

Section 23 amended

17. Section 23 (1) of the principal Act is amended by inserting after paragraph (b) the following paragraph—

“ (ba) a casino liquor licence; ”.

Section 25 amended

18. Section 25 of the principal Act is amended—

(a) in subsection (1) (a) by deleting—

(i) “whether or not he is a casino licensee,”; and

(ii) “or a tavern licence” and substituting the following—

“ , a tavern licence or a casino liquor licence ”;

(b) in subsection (1) (b) by deleting “an hotel licence” and substituting the following—

“ a casino liquor licence ”;

(c) in subsection (2) (a) by deleting “or a tavern licence, whether or not he is a casino licensee,” and substituting the following—

“ , a tavern licence or a casino liquor licence ”;

(d) in subsection (2) (b) by deleting “the holder of an hotel licence which is a casino licensee” and substituting the following—

“ a casino licensee which is the holder of a casino liquor licence ”; and

(e) in subsection (4) by deleting “or tavern licence” and substituting the following—

“ , tavern licence or casino liquor licence ”.

Section 26A inserted

19. The principal Act is amended by inserting after section 26 the following section—

Casino liquor licence

“ 26A. A casino liquor licence authorizes the licensee to sell and supply liquor on the licensed premises on such days and during such periods as are determined, and notified to the Director and the licensee, by the Casino Control Committee. ”.

Section 50A amended

20. Section 50A of the principal Act is amended—

- (a) in subsection (1) by inserting after paragraph (a) the following paragraph—

“ (aa) a casino liquor licence; ”;

- (b) in subsection (4) by inserting after paragraph (a) the following paragraph—

“ (aa) casino liquor licences; ”;

- (c) in subsection (5) by inserting after “restaurant concerned” the following—

“ , or the part of the casino complex concerned to which the casino liquor licence applies, as the case requires, ”;

- (d) in subsection (6) by deleting—

- (i) “When” and substituting the following—

“ Subject to subsection (6a), when ”; and

- (ii) “under section 117”;

and

- (e) by inserting after subsection (6) the following subsection—

“ (6a) If any premises in a casino complex, to which premises an hotel licence or a cabaret licence or restaurant licence relates, cease by virtue of an order made under section 21F (1b) of the *Casino Control Act 1984* to be part of the casino complex—

- (a) the hotel licence, cabaret licence or restaurant licence may be transferred under Division 3 of Part IV from the casino licensee to another person; and

- (b) subsections (8), (9) and (10) do not apply to or in relation to the hotel licence, cabaret licence or restaurant licence. ”.

Section 84 amended

21. Section 84 of the principal Act is amended—

(a) in subsection (1) by inserting after “Subject to” the following—

“ subsection (1a), ”; and

(b) by inserting after subsection (1) the following subsection—

“ (1a) Notwithstanding anything in this Division, a licensing authority shall, in the case of a licence which—

(a) relates to premises which have ceased by virtue of an order made under section 21F(1b) of the *Casino Control Act 1984* to be part of a casino complex; and

(b) is sought to be transferred from the casino licensee of the casino established in the casino complex referred to in paragraph (a) to another person,

with the consent in writing of the holder of that licence, on payment of the specified fee and on production to the licensing authority of the return referred to in section 163(6), transfer that licence to the other person referred to in paragraph (b). ”.

Section 85 amended

22. Section 85 of the principal Act is amended—

(a) in subsection (2) (b) by deleting “except in the case of a licence which relates to premises within a casino complex and is sought to be transferred to a casino licensee, be advertised” and substituting the following—

“ except in the case of—

(i) a licence which relates to premises within a casino complex and is sought to be transferred to a casino licensee; or

(ii) a licence referred to in section 84 (1a),

be advertised ”;

- (b) in subsection (3) by deleting “who is not a casino licensee seeking the transfer to it of a licence relating to premises within the relevant casino complex shall,” and substituting the following—

“ who is not—

- (a) a casino licensee seeking the transfer to it of a licence relating to premises within the relevant casino complex; or
- (b) a person seeking the transfer to him of a licence relating to premises referred to in section 84 (1a) from the casino licensee of the casino established in the casino complex referred to in that section,

shall, ”; and

- (c) in subsection (4) by deleting “not being a casino licensee seeking transfer to it of a licence relating to premises within the relevant casino complex, has not” and substituting the following—

“ not being—

- (a) a casino licensee seeking the transfer to it of a licence relating to premises within the relevant casino complex; or
- (b) a person seeking the transfer to him of a licence relating to premises referred to in section 84 (1a) from the casino licensee of the casino established in the casino complex referred to in that section,

has not ”.
