

ACTS AMENDMENT AND VALIDATION (CASINO CONTROL).

No. 10 of 1985.

AN ACT to amend the Police Act 1892, the Lotteries (Control) Act 1954, the Liquor Act 1970 and the Casino Control Act 1984 and to validate certain negotiations.

[Assented to 25 March 1985.]

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.

1. This Act may be cited as the *Acts Amendment and Validation (Casino Control) Act 1985*. Short title.

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Commence-
ment.

2. This Act shall be deemed to have come into operation on the day before the day on which an agreement with respect to the construction and establishment of a casino complex at Burswood Island in the State was entered into under section 19 (1) of the Casino Control Act 1984 between the Minister of the Crown to whom the administration of that Act was then committed by the Governor and the public companies West Australian Trustees Limited and Burswood Management Limited.

PART II—POLICE ACT 1892.

Principal Act.
Reprinted as
approved
18 April 1983
and
amended by
Acts Nos. 21
and
30 of 1983
and 22 and
23 of 1984.

3. In this Part the Police Act 1892 is referred to as the principal Act.

Section 84A
amended.

4. Section 84A of the principal Act is amended by—

(a) inserting after “84A.” the following—

“ (1) ”;

(b) deleting “and” at the end of paragraph (f);

(c) deleting the comma at the end of paragraph (g) and substituting the following—

“ ; and ”;

(d) inserting after paragraph (g) the following paragraph—

“ (h) the Casino Control Act 1984, ”;
and

(e) inserting after the existing section the following subsection—

“ (2) Sections 84G and 84H do not apply to or in relation to a licensed casino within the meaning of the Casino Control Act 1984. ”.

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5. Section 85 of the principal Act is amended in subsection (4) by inserting after paragraph (ab) the following paragraph—

Section 85
amended.

“ (ac) is an authorized game as defined by the Casino Control Act 1984 played in accordance with rules approved under that Act in a licensed casino as so defined; ”.

PART III—LOTTERIES (CONTROL) ACT 1954.

6. In this Part the Lotteries (Control) Act 1954 is referred to as the principal Act.

Principal
Act.
Reprinted as
approved
19 April 1979
and amended
by Acts
Nos. 103 of
1981, 24 and
72 of 1982,
21, 29 and 43
of 1983 and
22, 40 and
107 of 1984.

7. Section 4 of the principal Act is amended in the definition of “lottery” by—

Section 4
amended.

(a) deleting “or” at the end of paragraph (b);

(b) inserting “or” at the end of paragraph (c);

and

(c) inserting after paragraph (c) the following paragraph—

“ (d) an authorized game as defined by the Casino Control Act 1984 played in accordance with rules approved under that Act in a licensed casino as so defined; ”.

PART IV—LIQUOR ACT 1970.

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

Principal
Act.
Reprinted as
approved
27 July 1984.

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Section 7
amended.

9. Section 7 of the principal Act is amended in subsection (1) by inserting after the definition of—

(a) “brandy” the following definitions—

“ “casino complex agreement” means casino complex agreement as defined by section 3 of the Casino Control Act 1984;

“casino complex” means casino complex as defined by section 3 of the Casino Control Act 1984;

“Casino Control Committee” means Casino Control Committee established by section 4 (1) of the Casino Control Act 1984;

“casino licensee” means casino licensee, as defined by section 3 of the Casino Control Act 1984, which is a party to a casino complex agreement; ”; and

(b) “licence” the following definition—

“ “licensed casino” means licensed casino as defined by section 3 of the Casino Control Act 1984; ”.

Section 24
amended.

10. Section 24 of the principal Act is amended—

(a) in subsection (11) by deleting “The Court” and substituting the following—

“ Subject to subsection (12), the Court ”; and

(b) by inserting after subsection (11) the following subsection—

“ (12) The Court shall not, in the case of a licensee which is a casino licensee, on the application of a supervisor vary

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under subsection (11) the hours, provisions or conditions of a permit granted in respect of premises within the relevant casino complex. ”.

11. Section 24A of the principal Act is amended— Section 24A
amended.

- (a) by repealing subsections (1) and (2) and substituting the following subsections—

“ (1) Subject to this section, the Court may—

(a) subject to sections 58A and 58B, on the application of the holder of an hotel licence (whether or not that holder is a casino licensee) and on payment of the specified fee, issue to that holder an entertainment permit, to have effect on such day or days, excluding Sundays, Christmas Day and Good Friday, and in such part of the licensed premises as the Court may specify and subject to such conditions as the Court may see fit to impose; or

(b) on the application in the prescribed manner of the holder of an hotel licence which is a casino licensee and on payment of the specified fee, issue to that holder an entertainment permit, to have effect on such day or days, excluding Sundays, and on such part of the licensed premises within the relevant casino complex as the Court may specify and subject to such conditions as may be agreed by the Court and that holder.

(2) The Court shall not issue an entertainment permit unless and until the Court is satisfied that the licensed premises in respect of which the entertainment permit is sought are so constructed as to enable entertainment to be provided—

- (a) in the case of an application by the holder of an hotel licence who is not a casino licensee, by the proposed number of artists, present and performing in person, in an area that is divorced from any bar other than that serving the persons for whom the entertainment is provided and that light refreshments, of such a nature as the Court may approve, will continuously be available for purchase during such period as the entertainment permit is in operation; or
 - (b) in the case of an application by the holder of an hotel licence which is a casino licensee, by the proposed number of artists, present and performing in person. ”; and
- (b) in subsection (3) by deleting “on the application of a supervisor or a member of the Police Force, from time to time” and substituting the following—
- “ on the application of—
- (a) except in the case of an entertainment permit relating to premises within a casino complex and held by a casino licensee, a supervisor; or
 - (b) a member of the Police Force, from time to time ”.

12. Section 25 of the principal Act is amended— Section 25
amended.

- (a) by repealing subsections (1) and (2) and substituting the following subsections—

“ (1) If the licensee—

(a) whether or not he is a casino licensee, obtains a caterer's permit under this section, an hotel licence or a tavern licence authorizes him to sell and supply liquor on such premises, other than the licensed premises, generally or on such day or days, excluding Good Friday, and during such period or periods on that day or any of those days, as shall be specified in the caterer's permit; or

(b) being a casino licensee, obtains a caterer's permit under this section in respect of such part of the premises of the relevant casino complex as is specified in the relevant casino complex agreement, an hotel licence authorizes him to sell and supply liquor on that part generally or on such day or days, and during such period or periods on that day or any of those days, as are from time to time determined, and notified to the Court and to him, by the Casino Control Committee.

(2) The Court—

(a) may, on the application of the holder of an hotel licence or a tavern licence, whether or not he is a casino licensee, made not later than 7 days, or such lesser period as the Court in special circumstances may allow, before the day, or the first day, on which the relevant caterer's permit is to take effect and on payment of the specified fee, issue to that holder a caterer's permit to have effect—

- (i) on the premises, or on a defined part of the premises, specified in the caterer's permit or, generally, on premises in respect of which a function permit is issued under this Act or on both those classes of premises;
- (ii) generally or on any day or days, excluding Good Friday, specified in the caterer's permit; and
- (iii) during any period or periods, generally or on a specified day or specified days, between the hours of 9 in the morning of one day and 2 in the morning of the following day, notwithstanding that the following day is a Good Friday, specified in the caterer's permit;

or

(b) shall, on the application of the holder of an hotel licence which is a casino licensee made not later than 7 days, or such lesser period as the Court in special circumstances may allow, before the day, or the first day, on which the relevant caterer's permit is to take effect and on payment of the specified fee, issue to that holder a caterer's permit to have effect—

- (i) on the premises of the relevant licensed casino or on such defined part of those premises, or on such other premises within the casino complex concerned, as is or are agreed by the Court and that holder and specified in the caterer's permit;
- (ii) generally or on any such day or days as is or are from time to time determined, and notified to the Court and that holder, by the Casino Control Committee; and
- (iii) during such period or periods, generally or on such day or days, as are from time to time determined, and notified to the Court and that holder, by the Casino Control Committee. ”;

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- (b) in subsection (3) by inserting after “a caterer’s permit” the following—

“ (other than a caterer’s permit which relates to the premises of a licensed casino) ”; and

- (c) by repealing subsection (6) and substituting the following subsection—

“ (6) It is a condition of—

- (a) every caterer’s permit which does not relate to any premises referred to in subsection (2) (b) (i) that—

(i) the licensee to whom it is issued shall not enter into, or continue, any arrangement whereby the benefit arising from the holding of that caterer’s permit accrues to any other person; and

(ii) the person nominated under subsection (5) shall attend at the premises referred to in that subsection at the times referred to therein;

or

- (b) every caterer’s permit which relates to any premises referred to in subsection (2) (b) (i) that the licensee to which it is issued shall not enter into, or continue, any arrangement whereby the benefit arising from the holding of that caterer’s permit accrues to any other person. ”.

13. Section 30 of the principal Act is amended— Section 30
amended.

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

“ who is not a casino licensee ”;

- (b) in subsection (2) by inserting in paragraph
(c) before “have sufficient” the following—

“ except in the case of premises in respect
of which a casino licensee seeks a
cabaret licence, ”; and

- (c) by repealing subsection (3) and substitut-
ing the following subsection—

“ (3) The Court may impose such
conditions on the granting of a cabaret
licence—

- (a) except when the cabaret
licence is granted to a casino
licensee, as it thinks fit,
including conditions defining
the extent and nature of the
entertainment and the light
refreshments to be provided;

or

- (b) when the cabaret licence is
granted to a casino licensee, as
are agreed by the Court and
the casino licensee, including
conditions defining the extent
and nature of the entertain-
ment to be provided. ”.

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Section 50A
inserted.

14. The principal Act is amended by inserting after section 50 the following section—

Certain
applications
by casino
licensees.

“ 50A. (1) Notwithstanding anything in this Act, a casino licensee which wishes to apply for the grant of—

- (a) an hotel licence;
- (b) a cabaret licence; or
- (c) a restaurant licence,

in respect of any premises within the relevant casino complex shall lodge with the principal clerk—

- (d) an informal notice of application for that licence;
- (e) a copy of the Act to which the relevant casino complex agreement is scheduled or in which that casino complex agreement is incorporated or appears, as the case requires;
- (f) such number of copies of such plans and specifications of those premises as may be specified by the Court; and
- (g) a certificate made by the Minister to whom the administration of the Act referred to in paragraph (e) is for the time being committed by the Governor and certifying that the premises to which that application relates have been or are being constructed in accordance with the relevant casino complex agreement.

(2) The principal clerk shall endorse on an application lodged under subsection (1) the date on which it was so lodged.

(3) Subject to subsection (4), the Court shall, as soon as may be practicable after the lodging of a notice of application under subsection (1), grant that application.

(4) There shall not be granted under subsection (3) to the same casino licensee in respect of premises within the same casino complex more than the maximum number of—

- (a) hotel licences;
- (b) cabaret licences; or
- (c) restaurant licences,

specified in the relevant casino complex agreement in respect of the whole or any part of the period of operation of that casino complex agreement.

(5) If at the time when an application under subsection (1) is granted the premises of or containing the hotel, cabaret or restaurant concerned are not completed or fitted out to the satisfaction of the Casino Control Committee, a person who sells or supplies liquor under the relevant licence at any time during the period—

- (a) commencing at the time of that grant; and
- (b) ending when the Casino Control Committee notifies the holder of that licence that those premises are completed or fitted out to its satisfaction,

without the permission in writing of the Casino Control Committee and in accordance with such conditions as are specified in that permission is deemed unlawfully to deal in liquor within the meaning of Division 3 of Part VII.

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(6) When the holder of an hotel licence, cabaret licence or restaurant licence ceases to be a casino licensee, the hotel licence, cabaret licence or restaurant licence shall, notwithstanding subsection (9), be deemed to be surrendered under section 117 unless, in the case of a cabaret licence or restaurant licence, the Casino Control Committee otherwise directs.

(7) Sections 51 to 57, subsections (2) and (3) of section 58 and sections 58A to 73A do not apply to or in relation to an application lodged under subsection (1).

(8) Sections 79, 80, 82, 83A, 87 (1) and 89, Division 4 of Part IV and sections 165 and 166A do not apply to or in relation to a licence granted as a result of a notice of application lodged under subsection (1).

(9) Part V, except for section 94, does not apply to or in relation to the premises in respect of which—

- (a) a licence has been granted as a result of a notice of application lodged under subsection (1); or
- (b) a caterer's permit has been issued to the holder of a licence referred to in paragraph (a).

(10) Notwithstanding anything in this section, a licence granted under subsection (3) shall not be removed under Division 4 of Part IV to any premises outside the casino complex concerned. ”.

Section 81
amended.

15. Section 81 of the principal Act is amended—

- (a) in subsection (1) by inserting before “an objection” in paragraph (a) the following—

“ in the case of an applicant who is not a casino licensee, ”;

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- (b) in subsection (2) by inserting after “by the notice attach” the following—

“ , subject to subsection (2a), ”;

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

“ (2a) The Court shall not under subsection (2), in granting the renewal of a licence or permit in respect of any premises within the relevant casino complex to a licensee or permit holder which is a casino licensee, attach conditions to the operation of the licence or permit without the consent of that licensee or permit holder. ”; and

- (d) in subsection (3) by inserting after “a licence or permit” the following—

“ which is not held by a casino licensee ”.

16. Section 83A of the principal Act is amended by inserting after subsection (3) the following subsection—

Section 83A
amended.

“ (4) This section does not apply to or in relation to the holder of a permit of a continuing nature—

(a) which holder is a casino licensee; and

(b) which permit relates to any premises within the relevant casino complex. ”.

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Section 85
amended.

17. Section 85 of the principal Act is amended—

(a) in subsection (2) by inserting before “be advertised” in paragraph (b) the following—

“ 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, ”;

(b) in subsection (3) by inserting after “An applicant” the following—

“ who is not a casino licensee seeking the transfer to it of a licence relating to premises within the relevant casino complex ”; and

(c) in subsection (4) by inserting after “a person who” the following—

“ , not being a casino licensee seeking transfer to it of a licence relating to premises within the relevant casino complex, ”.

Section 86
amended.

18. Section 86 of the principal Act is amended in subsection (1) by inserting after “by section 52” the following—

“ to the extent that the provisions of section 85 permit ”.

Section 87
amended.

19. Section 87 of the principal Act is amended in subsection (1) by inserting after “licence” the following—

“ , other than a licence relating to the premises within a casino complex and held by the relevant casino licensee, ”.

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20. Section 126 of the principal Act is amended by repealing subsection (2b) and substituting the following subsection—

Section 126
amended.

“(2b) It is a defence to a complaint of an offence against subsection (1) (f) relating to—

(a) betting with any person, or suffering betting, gaming or the playing of unlawful games or the conduct of a lottery on the licensed premises of a licensed casino to show that that betting, gaming, playing of unlawful games or conduct of a lottery constituted or formed part of an authorized game within the meaning of the Casino Control Act 1984; or

(b) the conduct of—

(i) a lottery on premises licensed under section 35 to show that the lottery; or

(ii) a lottery consisting of the game commonly known as bingo, housie-housie or tombola on premises licensed under section 24, 26, 27, 28 or 29 to show that that lottery,

was one for which a permit had been granted by the Lotteries Commission under the Lotteries (Control) Act 1954. ”.

21. Section 177 of the principal Act is amended in subsection (2) by inserting after paragraph (b) the following paragraph—

Section 177
amended.

“(c) prescribing all matters that are required or permitted by this Act to be prescribed; ”.

PART V—CASINO CONTROL ACT 1984.

Principal
Act.
Act No. 34
of 1984.

22. In this Part the Casino Control Act 1984 is referred to as the principal Act.

Section 3
amended.

23. Section 3 of the principal Act is amended—

(a) by inserting after “3.” the following—

“ (1) ”;

(b) by inserting before the definition of “authorized game” the following definition—

“ “administrator” means administrator appointed under section 21E (1) or (2); ”;

(c) in the definition of “casino agreement” by deleting “ “casino agreement” means” and substituting the following—

“ “casino complex agreement” means ”;

(d) by inserting before the definition of “casino employee” the following definition—

“ “casino complex” means casino established—

(a) in the premises of; or

(b) in an area in which—

(i) are also established; or

(ii) are to be established,

an hotel and other amenities constructed to international standards, which casino and hotel and other amenities are the subject of a casino complex agreement; ”;

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- (e) by deleting the definition of “casino gaming licence” and inserting before the definition of “casino inspector” the following definition—

“ “casino gaming licence” means casino gaming licence granted under section 21; ”;

- (f) by inserting before the definition of “condition” the following definition—

“ “common gaming house” has the meaning given by section 87 (1) of the Police Act 1892; ”;

- (g) by deleting the definition of “game” and substituting the following definition—

“ “game” means—

(a) game of chance or pretended game of chance; or

(b) game or pretended game which includes a degree of chance,

whether or not combined with a skill or degree of skill and whether or not played manually or by means of—

(c) any electrical, electronic or mechanical contrivance or machine that is constructed or adapted for use in a game or pretended game referred to in paragraph (a) or (b);
or

(d) any other instrument of gaming; ”;

- (h) in the definition of “licensed casino” by inserting after “licence is” the following—

“ , or is deemed to be, ”;

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- (i) by inserting after the definition of “member” the following definition—

“ “mortgagee” means person in whose favour a mortgage, charge or other encumbrance is created under section 21F (1); ”;

- (j) by deleting the definition of “police officer”;
and

- (k) by inserting after the existing section the following subsection—

“ (2) A reference in this Act to an officer of the Committee includes a reference to the Chief Casino Officer and a casino inspector. ”.

Section 4A
inserted.

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

Powers,
functions
and duties
of
Committee.

- “ 4A. (1) The Committee has and may exercise such powers, and shall perform such functions and duties, as are conferred or imposed on it by or under this Act or any other Act or a casino complex agreement.

(2) Whenever by or under this Act anything shall or may be done on the recommendation of the Committee, the Committee may for the purposes of making the necessary recommendation carry out such investigations as it considers necessary or desirable. ”.

Section 9
amended.

25. Section 9 of the principal Act is amended—

- (a) in subsection (1) by inserting after “for the purposes of this Act” the following—

“ or of any other Act or of a casino complex agreement ”; and

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

“ (1a) An officer of the Committee has and may exercise such powers, and shall perform such functions and duties, as are conferred or imposed on him by or under this Act or any other Act or a casino complex agreement. ”.

26. Section 11 of the principal Act is amended— Section 11 amended.

- (a) by deleting “the Chief Casino Officer or any other” and substituting the following—

“ an ”;

- (b) in paragraph (a) by—

- (i) deleting “or employment or if his term or office or employment” and substituting the following—

“ or if his term of office ”; and

- (ii) deleting “the Chief Casino Officer or other” and substituting the following—

“ an ”;

and

- (c) in paragraph (b) by deleting “the Chief Casino Officer or other” and substituting the following—

“ an ”.

27. Section 14 of the principal Act is amended— Section 14 amended.

- (a) in subsection (1) by—

- (i) deleting “and” at the end of paragraph (a); and

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- (ii) inserting after paragraph (a) the following paragraph—

“ (aa) casino gaming licence fees paid to the Committee under section 20; and ”;

and

- (b) in subsection (4) by—

- (i) deleting “whenever required by the Treasurer to so do” and substituting the following—

“ at such times as the Treasurer directs ”;

and

- (ii) inserting after “any surplus moneys” the following—

“ , or so much of any surplus moneys as the Treasurer directs, ”.

Heading of
Part III
amended.

28. The heading of Part III of the principal Act is amended by inserting after “CASINO” the following—

“ COMPLEX ”.

Section 19
amended.

29. Section 19 of the principal Act is amended—

- (a) by repealing subsections (1) and (2) and substituting the following subsections—

“ (1) Subject to this section, the Minister acting for and on behalf of the State and its instrumentalities may enter into an agreement with a public company, whether acting on its own behalf or as a trustee or in any other capacity, with respect to the

construction and establishment of a new casino complex in the State, and may in such an agreement undertake not to approve under section 21 (3) during a period specified in that agreement of an application for a casino gaming licence made by a person other than a party to that agreement.

(2) The Committee shall, before the Minister enters into a casino complex agreement with a public company, carry out such investigations as it considers necessary or desirable for the purposes of that casino complex agreement and such additional investigations as it considers necessary or desirable to inform itself of—

(a) the reputation and financial status of the public company and of the financial status or proposed financial status and the structure of any trust or proposed trust of which the public company is or may become the promoter or founder or trustee;

(b) the reputation, financial status and capacity to organize and conduct the gaming operations of a licensed casino of—

(i) every natural person;
and

(ii) every director or other member of the governing body of, and every principal officer of, a body corporate,

intended by the public company to organize and conduct the gaming operations of the licensed casino;
and

(c) such other matters as are prescribed.

(2a) The public company and the natural persons, directors or other members of a governing body, and principal officers, referred to in subsection (2) shall provide the Committee with such information and books—

(a) as the Committee requires for the purposes of an investigation carried out under that subsection; and

(b) as they are able to provide.

(2b) After having informed itself of the matters referred to in subsection (2), the Committee shall submit a report on those matters and on any other matters it considers relevant, together with its recommendations thereon, to the Minister. ”;

(b) in subsection (3) by—

(i) inserting before “agreement” wherever it occurs in each case the following—

“ complex ”; and

(ii) deleting “either party” and substituting the following—

“ any party ”; and

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- (c) by repealing subsection (4) and substituting the following subsections—

“ (4) A casino complex agreement shall not confer the right on any party thereto, or on a person referred to therein, to conduct games at the premises of the casino to which the casino complex agreement relates until a casino gaming licence is granted to that party and then only in accordance with the casino gaming licence.

(5) A casino complex agreement may be amended or terminated in accordance with its provisions. ”.

30. Section 20 of the principal Act is repealed and the following sections are substituted—

Section 20
repealed and
sections 20,
20A and 20B
substituted.

“ 20. (1) A public company entering into a casino complex agreement with the Minister shall undertake in the casino complex agreement to pay, on becoming a casino licensee—

Casino
gaming
licence fees
and taxes.

(a) to the Committee a casino gaming licence fee in an amount; and

(b) to the Treasurer a tax at a rate, specified in the casino complex agreement at times specified therein.

(2) A casino complex agreement may provide—

(a) for the joint review by the Minister and any other party to the casino complex agreement at intervals specified in the casino complex agreement of the amount of the casino gaming licence fee, and of the rate of the tax, referred to in subsection (1); or

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- (b) in lieu of a review referred to in paragraph (a), for a variation in the amount or rate referred to in paragraph (a) in accordance with the casino complex agreement.

Penalty
for late
payment.

20A. (1) There shall be charged and become due and payable forthwith to—

- (a) the Committee on the amount of any casino gaming licence fee; or
- (b) the Treasurer on the amount of any tax,

referred to in section 20 remaining unpaid after the day on which it becomes due and payable a daily penalty at the rate of 20 per cent per annum.

(2) The Committee may, for any reason it thinks sufficient, remit any penalty or part thereof payable on the amount of any casino gaming licence fee under this section.

(3) The Treasurer may, for any reason he thinks sufficient, remit any penalty or part thereof payable on the amount of any tax under this section.

Recovery or,
and liability
for, casino
gaming
licence
fees and
taxes, etc.

20B. (1) All casino gaming licence fees and penalties in respect thereof due and payable under this Part and remaining unpaid are debts due to the Committee and may be recovered by action in a court of competent jurisdiction.

(2) All taxes and penalties in respect thereof due and payable under this Part and remaining unpaid are debts due to the Committee and may be recovered by action in a court of competent jurisdiction.

(3) The casino licensee is liable for all casino gaming licence fees, taxes and penalties due and payable under this Part. ”.

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31. Section 21 of the principal Act is repealed and the following sections are substituted—

Section 21
repealed and
sections 21
to 21F
inserted.

“ 21. (1) A public company which is a party to a casino complex agreement and wishes to obtain a casino gaming licence in respect of the relevant casino (in this section called “the applicant”) may lodge with the Committee its application for that casino gaming licence, together with—

Procedure
for dealing
with
application
for casino
gaming
licence.

(a) an application fee of \$5 000 or such other amount as is prescribed;

(b) such information relating to—

(i) that application; and

(ii) the question whether or not the applicant has complied with the preliminary requirements,

as is prescribed and as the Committee requires; and

(c) if the Committee so requires, the consent in writing of any person who is—

(i) believed by the Committee; or

(ii) known to the applicant,

to be associated with the applicant in some way to the obtaining by the Committee of such information concerning the background of that person as the Committee requires.

(2) On receiving an application made under subsection (1), the Committee shall—

(a) carry out such investigations as it considers necessary or desirable to inform itself whether or not the applicant has complied with the preliminary requirements; and

- (b) submit a copy of that application, together with its opinion on whether or not the applicant has complied with the preliminary requirements, to the Minister.

(3) On receiving a copy of an application and the opinion of the Committee submitted to him under subsection (2) or resubmitted to him under subsection (4) (b), the Minister shall—

- (a) subject to an undertaking referred to in section 19 (1) and if the applicant has complied with the preliminary requirements, approve of that application subject to such conditions as are set out in the casino complex agreement and to such additional conditions, if any, as are agreed between the Minister and the applicant;
- (b) if the applicant has not complied with the preliminary requirements but will in the opinion of the Minister be able to comply with them within such period as the Minister considers reasonable, defer consideration of that application for that period; or
- (c) if the applicant has not complied with the preliminary requirements and will not in the opinion of the Minister be able to comply with them within such period as the Minister considers reasonable, refuse to consider that application,

and shall advise the Committee accordingly.

(4) On being advised by the Minister under subsection (3), the Committee shall—

- (a) if the Minister approves of the application concerned, grant to the applicant the casino gaming licence concerned, subject to the same conditions as those to which that approval is subject, and specify those conditions in that casino gaming licence;
- (b) if the Minister defers consideration of the application concerned for a period, resubmit that application, together with its opinion on whether or not the applicant has complied with the preliminary requirements, to him at the conclusion of the period; or
- (c) if the Minister refuses to approve of the application concerned, refuse to grant that application,

and shall advise the applicant accordingly.

(5) A casino gaming licence remains in force until it is suspended or revoked under section 21B (3) or surrendered under section 21C.

(6) In this section—

“the preliminary requirements” means those provisions of the relevant casino complex agreement with which the applicant is required by that casino complex agreement to comply before a casino gaming licence can be granted to the applicant in respect of the casino concerned.

Inquiries.

21A. (1) The Committee may at any time inquire into any matter concerning a licensed casino.

(2) After concluding an inquiry carried out under subsection (1), the Committee shall report in writing to the Minister and recommend to him what action, if any, should be taken under section 21B in respect of the licensed casino concerned.

**Powers of
Minister
following
inquiry.**

21B. (1) On receiving a report and recommendations made under section 21A (2), the Minister shall, if he is of the opinion that he should exercise any of the powers conferred on him by subsection (3) in respect of the licensed casino concerned, cause to be served on the casino licensee of that licensed casino and on any other person who is considered by the Minister to be likely to be affected by the exercise of that power a notice in writing—

- (a) specifying the reasons for his opinion and which of those powers he proposes to exercise; and
- (b) requiring that casino licensee and any other such person to show cause in writing within a period of 14 days after the date of that service why the power specified in that notice should not be exercised.

(2) A person on whom a notice has been served under subsection (1) shall within the period of 14 days after the date of that service serve on the Minister a submission in writing showing cause why the power specified in that notice should not be exercised.

(3) After receiving and considering each submission served on him under subsection (2) within the period referred to in that subsection or, if no submission is so served, within a period of 21 days after having caused the

relevant notice, or the later or last of the relevant notices, as the case requires, to be served under subsection (1), the Minister may, subject to subsection (4) and if he considers it in the public interest to do so—

- (a) with the prior approval of the Governor, suspend for such period as he thinks fit, or revoke, the casino gaming licence of the casino licensee concerned; or
- (b) serve notice of termination on the parties to any agreement (other than a casino complex agreement) relating to the management or operation of the casino complex concerned or any part thereof, including the premises of the licensed casino concerned, to which agreement the casino licensee concerned is a party, whereupon that agreement is by force of this subsection terminated.

(4) The Minister shall not exercise a power conferred on him by subsection (3) unless that power was specified in the relevant notice served under subsection (1).

21C. When a casino complex agreement is terminated, the Minister may, with the prior approval of the Governor, revoke any casino gaming licence granted to a party to the casino complex agreement.

Power of
Minister on
termination
of casino
complex
agreement.

21D. (1) A casino licensee may apply in writing to the Committee to surrender its casino gaming licence.

Surrender of
casino
gaming
licence.

(2) An application made under subsection (1) shall set out in detail the grounds on which it is made.

(3) After considering an application made under subsection (1) and the grounds on which it is made, the Committee may—

- (a) if it is satisfied that there are circumstances existing in which the continued operation of the licensed casino to which that application relates is neither in the best interests of the applicant nor in the public interest, grant that application; or
- (b) refuse that application.

Procedure
on suspension or
revocation
of casino
gaming
licence.

21E. (1) Subject to this section, when a casino gaming licence held by a party to a casino complex agreement is—

- (a) under section 21B (3) (a) suspended for a period of not less than 90 days, the Minister shall within a period of 7 days of the day of receipt by him of a request from the specified person; or
- (b) under section 21B (3) (a) or 21C revoked, the Minister shall within a period of 7 days of the day of that revocation,

appoint a person nominated by the specified person and approved by the Committee to be the administrator of the casino concerned.

(2) Subject to this section, the Minister may on the recommendation of the Committee and shall if the specified person so requests terminate the appointment of an administrator appointed under this section and

(b) has, subject to paragraph (a), all the powers necessary or desirable for the efficient operation of the licensed casino concerned; and

(c) ceases to hold office when—

(i) his appointment is terminated under subsection (3); or

(ii) in the case of the suspension of a casino gaming licence under section 21B (3) (a), that suspension ends.

(7) In this section—

“the specified person” means—

(a) a mortgagee or, if there is more than one mortgagee, the mortgagee having priority over the other mortgagee or mortgagees;

(b) if there is at the relevant time no mortgagee, a person specified for the purposes of this definition in an agreement approved by the Minister; or

(c) if there is at the relevant time neither a mortgagee nor a person specified within the meaning of paragraph (b), the owner of the casino complex concerned.

21F. (1) A casino licensee may create a mortgage, charge or other encumbrance over—

(a) its casino gaming licence;

- (b) the whole or any part of the premises of the casino complex concerned, including the premises of the licensed casino to which its casino gaming licence relates; or
- (c) its rights and benefits under the relevant casino complex agreement,

with the prior consent of, and in favour of a person approved by, the Minister on the recommendation of the Committee and not otherwise.

(2) A casino licensee shall not assign its casino gaming licence or any rights, benefits or obligations under the relevant casino complex agreement to another person unless the other person is approved by the Minister on the recommendation of the Committee.

(3) An administrator shall not assign any rights, benefits or obligations under the relevant casino complex agreement, if any, to another person unless the other person is approved by the Minister on the recommendation of the Committee.

(4) If a mortgagee wishes to enforce his security under a mortgage, charge or other encumbrance—

- (a) any receiver appointed thereunder shall be; and
- (b) the casino gaming licence concerned and any rights, benefits or obligations under a casino complex agreement shall be assigned only to,

a person approved by the Minister on the recommendation of the Committee.

(5) The Minister may at the request of a mortgagee approve a receiver for the purpose

of subsection (4) (a) in advance of his appointment under the relevant mortgage, charge or other encumbrance.

(6) The Minister may refuse to approve a person (in this subsection called "the proposed assignee") for the purpose of subsection (2), (3) or (4) (b) until—

- (a) the proposed assignee enters into an agreement with the Minister; and, additionally or alternatively,
- (b) another person with whom the Minister considers that he should enter into an agreement in connection with the assignment of a casino gaming licence to the proposed assignee (in this subsection called "the proposed assignment") enters into such an agreement with the Minister,

containing such terms and conditions with respect to the proposed assignment and the proposed assignee as the Minister approves on the recommendation of the Committee.

(7) A mortgage, charge or other encumbrance or any assignment referred to in this section or any sale or lease made by the mortgagee or assignor or administrator shall be invalid unless approved beforehand by the Minister on the recommendation of the Committee.

(8) In this section—

"receiver" means receiver or receiver and manager, according to the nature of the appointment concerned. "

Section 22
amended.

32. Section 22 of the principal Act is amended—

(a) in subsection (1) by inserting after "any game" in paragraph (a) the following—

" , except for a game played with poker machines, ";

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

“ (1a) The Committee shall, before revoking a declaration made under subsection (1), cause to be served on the casino licensee concerned and on any other person considered by the Committee to be likely to be adversely affected by the proposed revocation a notice in writing—

(a) specifying the authorized game to which the proposed revocation relates and the reasons for the proposed revocation; and

(b) requiring the casino licensee concerned and any other person so considered to show cause in writing within a period of 7 days after the date of that service why the proposed revocation should not take place.

(1b) A person on whom a notice has been served under subsection (1a) may within the period of 7 days after the date of that service serve on the Committee a submission in writing showing cause why the proposed revocation to which that notice relates should not take place.

(1c) After receiving and considering each submission served on it under subsection (1b) within the period referred to in that subsection or, if no submission is so served, within a period of 10 days after having caused to be served under subsection (1a) the relevant notice, or the later or last of the relevant notices, as the case

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requires, the Committee may revoke, or decline to revoke, under subsection (1) the declaration concerned. ”;

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

“ (2a) Notwithstanding anything in this section, the Committee shall, on or before the day on which a casino gaming licence is granted to a party to a casino complex agreement—

(a) approve the rules under which every game specified for the purpose of this subsection in the casino complex agreement is to be played; and

(b) declare the game referred to in paragraph (a) to be an authorized game under subsection (1). ”; and

- (d) in subsection (3) by deleting “but the committee” and substituting the following—

“ but the Committee ”.

Section 23
amended.

33. Section 23 of the principal Act is amended—

- (a) in subsection (1) by—

(i) inserting after “any game” in paragraph (a) the following—

“ , except for a game played with poker machines ”; and

(ii) deleting “instrument of gaming” in paragraph (b) and substituting the following—

“ contrivance or machine referred to in paragraph (c) of the definition of “game” in section

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3 (1) or of any other instrument
of gaming, not being a poker
machine ”;

(b) in paragraph (b) of subsection (2) by—

(i) deleting “or” at the end of
subparagraph (i);

(ii) inserting after subparagraph (i) the
following subparagraph—

“ (ia) who is a casino key
employee or casino
employee; or ”; and

(iii) deleting “direction under section
26 (2)” in subparagraph (ii) and
substituting the following—

“ prohibition or direction under
section 26 ”;

and

(c) in subsection (3) by inserting before
“gaming house.” the following—

“ common ”.

34. Section 24 of the principal Act is amended Section 24
amended.
by deleting “Minister”, wherever it occurs, and
substituting the following—

“ Committee ”.

35. Section 25 of the principal Act is repealed. Section 25
repealed.

Section 26
amended.

36. Section 26 of the principal Act is amended—

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

“ (1a) A person authorized by the casino licensee for the purposes of this subsection may, either orally or in writing, prohibit a person from entering or remaining in the licensed casino.

(1b) A prohibition made under subsection (1a) remains in force—

(a) for a period of 24 hours from the time at which it was so made; or

(b) until it is revoked by a person authorized within the meaning of that subsection,

whichever is the sooner.

(1c) While a prohibition made under subsection (1a) remains in force, a person authorized within the meaning of that subsection may with the use of reasonable force exclude or remove the person who is the subject of that prohibition from the licensed casino or have him so excluded or removed.

(1d) A person who is the subject of a prohibition made under subsection (1a) shall not enter or remain in the licensed casino to which that prohibition relates while that prohibition remains in force.

Penalty: \$500. ”;

(b) in paragraph (a) of subsection (4) by deleting “supervision” and substituting the following—

“ authority ”;

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- (c) by repealing subsections (5) and (6) and substituting the following subsections—

“ (5) While a direction given under subsection (2) remains in force, a person authorized by the casino licensee for the purposes of this subsection may with the use of reasonable force exclude or remove the person who is the subject of that direction from the licensed casino or have him so excluded or removed.

(6) A person who is the subject of a direction given under subsection (2) shall not enter or remain in the licensed casino to which that direction relates while that direction remains in force.

Penalty: \$500 or imprisonment for 3 months. ”;

- (d) in subsection (7) by—

- (i) deleting “the casino concerned” and substituting the following—

“ the licensed casino concerned ”;
and

- (ii) inserting after “contrary to” the following—

“ a prohibition made under subsection (1a) or ”;

and

- (e) in subsection (8) by inserting after “to enter” the following—

“ or remain in ”.

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Section 27
amended.

37. Section 27 of the principal Act is amended—

- (a) in subsection (1) by deleting “play any game in the licensed casino” and substituting the following—

“ enter or remain in the licensed casino concerned ”;

- (b) in subsection (2) by deleting “playing the game alleged” and substituting the following—

“ entering or remaining in the licensed casino concerned ”; and

- (c) in subsection (3) by deleting “play any game” and substituting the following—

“ enter or remain in ”.

Section 28
amended.

38. Section 28 of the principal Act is amended—

- (a) in subsection (1) by inserting after “rank, enter at any time” the following—

“ and remain in ”;

- (b) in subsection (2) by inserting after “to enter” the following—

“ and remain in ”; and

- (c) in subsection (3) by deleting “casino inspector may enter at any time” and substituting the following—

“ member, officer of the Committee or person authorized by the Committee for the purpose of this subsection may enter at any time and remain in ”.

39. Section 30 of the principal Act is amended Section 30
amended. in subsection (2) by deleting—

(a) paragraph (a) and substituting the following paragraph—

“ (a) to require a company or other body of persons to furnish the names and addresses of persons registered or otherwise recorded as the holders of shares or other interests in the company or that other body; ”;

(b) in paragraph (b)—

(i) “as the holder of shares in a company” and substituting the following—

“ or otherwise recorded as the holder of shares or other interests in a company or other body of persons ”;

and

(ii) “shares” where it occurs for the second, third and fourth times and substituting in each case the following—

“ shares or other interests ”;

and

(c) in paragraph (c) “, or a competent officer of the company” and substituting the following—

“ or by a competent officer of the company or other body of persons ”.

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Section 33
amended.

40. Section 33 of the principal Act is amended by inserting after "A casino licensee which" the following—

" or a casino key employee or casino employee who ".

Section 36
repealed and
substituted.

41. Section 36 of the principal Act is repealed and the following section is substituted—

Prosecution
of offenders.

" 36. (1) Proceedings for an offence under this Act may be instituted by the Chief Casino Officer or by a person authorized in writing by the Minister or the Committee to institute those proceedings in a particular case.

(2) An offence under this Act may be prosecuted at any time.

(3) The conviction or acquittal of a person on a complaint of an offence under this Act shall not prevent a further prosecution and conviction in respect of a continuation of that offence after the date on which he was convicted or acquitted.

(4) In proceedings for an offence under this Act—

(a) it shall not be necessary to prove the appointment of the Minister, a member, an officer of the Committee or a police officer;

(b) a signature purporting to be that of any person in a capacity referred to in paragraph (a) shall be taken to be the signature it purports to be until the contrary is proved;

(c) a document or writing purporting to be a copy of any direction, notice, requirement, order or requisition

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given or made under this Act or of any licence granted or issued under this Act shall be evidence of the direction, notice, requirement, order, requisition or licence of which it purports to be a copy and, in the absence of evidence to the contrary, shall be conclusive evidence thereof;

- (d) a certificate purporting to be signed by the Chief Casino Officer certifying that at a specified time or during a specified period there was or was not in force under this Act a licence of a specified kind shall be evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained in the certificate;
- (e) the authority of a person to accept service of documents on behalf of another shall be presumed in the absence of evidence to the contrary;
- (f) the averment that any person is of a specified age or is under or over a specified age shall be sufficient evidence of the fact until the contrary is proved. ".

42. Schedule 1 to the principal Act is amended Schedule 1
amended. in clause 3 by deleting "or authorization" in sub-clause (3).

43. Schedule 2 to the principal Act is amended— Schedule 2
amended.

- (a) by inserting after "may be played in licensed casinos" in clause 3 the following—

" or the determination of those hours by the Committee "; and

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(b) in clause 4 by inserting after—

(i) “shareholders” the following—

“ or holders of other interests ”;

and

(ii) “company” the following—

“ or other body of persons ”.

Validation.

44. Notwithstanding that the Minister to whom the administration of the principal Act was during the period—

(a) commencing with the coming into operation of the principal Act; and

(b) ending immediately before the coming into operation of this Act,

committed by the Governor has, during that period, purported to negotiate an agreement under section 19 of the principal Act with a person or persons, not being a public company or public companies within the meaning of the *Companies (Western Australia) Code*, with respect to the construction and establishment of casino premises and other premises in the State, that negotiation shall be deemed to have been lawful and authorized by section 19 of the principal Act as it existed during that period.
