

Casino (Burswood Island) Agreement Amendment Bill 2011

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Western Australia

LEGISLATIVE ASSEMBLY

**Casino (Burswood Island) Agreement
Amendment Bill 2011**

A Bill for

**An Act to amend the *Casino (Burswood Island) Agreement Act 1985*
and, consequentially, the *Gaming and Wagering Commission
Act 1987*.**

The Parliament of Western Australia enacts as follows:

1

Part 1 — Preliminary

2

1. Short title

3

This is the *Casino (Burswood Island) Agreement Amendment Act 2011*.

4

5

2. Commencement

6

This Act comes into operation as follows —

7

(a) sections 1 and 2 — on the day on which this Act receives the Royal Assent;

8

9

(b) the rest of the Act — on the day after that day.

1 **Part 2 — *Casino (Burswood Island) Agreement***
2 ***Act 1985* amended**

3 **3. Act amended**

4 This Part amends the *Casino (Burswood Island) Agreement*
5 *Act 1985*.

6 **4. Section 3 amended**

7 (1) In section 3 insert in alphabetical order:

8

9 *the Twelfth Supplementary Agreement* means the
10 Twelfth Supplementary Agreement, a copy of which is
11 set out in Schedule 13.

12

13 (2) In section 3 in the definition of *the Agreement* after
14 paragraph (b)(v) insert:

15

16

17

18

19 (3) In section 3 in the definition of *the Supplementary Agreement*
20 delete “Schedule 2.” and insert:

21

22

23

Schedule 2;

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1 **5. Section 4F inserted**

2 After section 4E insert:

3

4 **4F. Twelfth Supplementary Agreement ratified and**
5 **implementation authorised**

6 (1) The Twelfth Supplementary Agreement is ratified and
7 its implementation is authorised.

8 (2) Without limiting or otherwise affecting the application
9 of the *Government Agreements Act 1979*, the Twelfth
10 Supplementary Agreement is to operate and take effect
11 despite any other Act or law.
12

13 **6. Schedule 13 inserted**

14 After Schedule 12 insert:

15

16 **Schedule 13 — Twelfth Supplementary Agreement**

17

[s. 3]

18 **Casino (Burswood Island) Agreement**

19 TWELFTH SUPPLEMENTARY AGREEMENT

20 **THIS AGREEMENT** made 12th day of May 2011

21 **B E T W E E N:**

22 **THE HONOURABLE TERRENCE WALDRON MLA**, the Minister of the
23 Crown for the time being charged with the administration of the Control Act
24 acting for and on behalf of the State of Western Australia and its
25 instrumentalities from time to time (“**the State**”)

26 **AND**

27 **BURSWOOD NOMINEES LIMITED** (ACN 078 250 307) of Burswood
28 Entertainment Complex, Great Eastern Highway, Burswood in the State of
29 Western Australia as trustee of the Burswood Property Trust (“**the Trustee**”)

1 **AND**

2 **BURSWOOD RESORT (MANAGEMENT) LIMITED** (ACN 009 396 945)
3 of Burswood Entertainment Complex, Great Eastern Highway, Burswood in the
4 State of Western Australia as manager of the Burswood Property Trust (“**the**
5 **Manager**”).

6 **RECITALS:**

7 A. The State, the Trustee (by virtue of the *West Australian Trustees*
8 *Limited (Merger) Act 1989*) and the Manager (by virtue of a deed of
9 retirement and appointment of manager made on 13 August 1990 and a
10 deed of assumption and covenant made on 13 November 1991) are
11 parties to an agreement dated 20 February 1985 ratified by and
12 scheduled to the *Casino (Burswood Island) Agreement Act 1985* as
13 amended by:

- 14 (a) the Supplementary Agreement made on 14 September 1987;
- 15 (b) the Second Supplementary Agreement made on 3 May 1990;
- 16 (c) the Third Supplementary Agreement made on 13 November 1991;
- 17 (d) the Fourth Supplementary Agreement made on 30 March 1992;
- 18 (e) the Fifth Supplementary Agreement made on 3 April 1995;
- 19 (f) the Sixth Supplementary Agreement made on 22 June 1996;
- 20 (g) the Seventh Supplementary Agreement made on 9 June 1997;
- 21 (h) the Eighth Supplementary Agreement made on 18 June 2003;
- 22 (i) the Ninth Supplementary Agreement made on 23 November 2005;
- 23 (j) the Tenth Supplementary Agreement made on 2 November 2006;
- 24 and
- 25 (k) the Eleventh Supplementary Agreement made on 28 March 2007,
- 26 which agreement as so amended is referred to in this Agreement as “**the**
27 **State Agreement**”.

28 B. The parties have agreed to further amend the State Agreement for the
29 purpose of more efficiently or satisfactorily implementing or facilitating
30 its objectives.

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1 **THE PARTIES AGREE AS FOLLOWS:**

2 **1. Definitions and Interpretation**

3 Words and expressions defined in the State Agreement when used in
4 this Agreement have, unless the context otherwise requires, the same
5 meanings as in the State Agreement and the provisions of clause 2 of
6 the State Agreement as to interpretation apply to this Agreement.

7 **2. Variation and Operation**

8 (a) The State shall introduce and sponsor a Bill in the Parliament of
9 Western Australia to ratify this Agreement and endeavour to
10 secure its passage as an Act.

11 (b) The provisions of this Agreement other than this clause and
12 clause 1 shall not come into operation until the Bill referred to
13 in subclause (a) has been passed by the Parliament of Western
14 Australia and comes into operation as an Act.

15 (c) On the said Bill commencing to operate as an Act, this
16 Agreement shall operate and take effect according to its terms
17 notwithstanding the provisions of any Act or law of Western
18 Australia.

19 **3. Clause 2 amended**

20 Clause 2 of the State Agreement is amended:-

21 (a) by amending the definition of "Casino Tax" by inserting after
22 the words "Table Game Tax" the words: ", the Fully Automated
23 Table Game Tax";

24 (b) by amending the definition of "Casino Tax Activity" by
25 inserting after the words "Table Game" the words ", Fully
26 Automated Table Game";

27 (c) by inserting after the definition of "Crown" the following
28 definition:-

29 "*Cruise Ship*" means any vessel that:

30 (a) has a minimum capacity of 100 passengers;

31 (b) is conducting a scheduled deep water cruise; and

- 1 (c) is transiting through Western Australian ports from and
2 to locations overseas or interstate;"
- 3 (d) by amending the definition of "Electronic Gaming Machine" by
4 inserting the words "or Fully Automated Table Game", after the
5 words "not a Table Game;"
- 6 (e) by deleting the definition of "Electronic Gaming Machine
7 Levy" and substituting the following:-
- 8 "***Electronic Gaming Machine Levy***" means, for the purpose
9 of subparagraph 23(1)(c)(ii)(D), the percentage of Casino
10 Taxable Revenue for Electronic Gaming Machines set out in
11 column 2 of the table in item 1 of schedule F;"
- 12 (f) by inserting after the definition of "Founders" the following
13 definition:-
- 14 "***Fully Automated Table Game***" means any new game which
15 is authorised under section 22 of the Control Act and which the
16 Gaming and Wagering Commission, by notice to the Trustee,
17 specifies to be a Fully Automated Table Game;"
- 18 (g) by inserting after the definition of "Fully Automated Table
19 Game" the following definition:-
- 20 "***Fully Automated Table Game Tax***" means the tax set out in
21 the Fully Automated Table Game Tax table in Schedule C."
- 22 (h) by inserting after the definition of "Genting WA" the following
23 definition:
- 24 "***Heirisson Island Sculpture Park Project***" means the State
25 Government of Western Australia's proposal to enhance
26 Heirisson Island environmentally and artistically through
27 environmental protection and conservation and through the
28 display of sculptural artworks as set out in the Heirisson Island
29 Sculpture Park Master Plan Report dated 9 June 2008."

30 **4. Clause 22 amended**

31 Clause 22 of the State Agreement is amended by:-

- 32 (a) deleting the word "or" from subclause 4(a);
- 33 (b) inserting "; or" after the word "Resort Complex" in
34 subclause 4(b);

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- 1 (c) inserting after subclause (4)(b) the following new clause :-
- 2 "(c) in a Cruise Ship in respect of which the conduct of
- 3 gaming outside a distance of 12 nautical miles from
- 4 the Western Australian baseline is permitted:
- 5 (i) under regulation 8A of the *Gaming and*
- 6 *Wagering Commission Regulations 1988*; or
- 7 (ii) by a permit issued by the Commission under
- 8 the *Gaming and Wagering Commission*
- 9 *Act 1987* and with the consent of the Trustee,";
- 10 (d) amending subclause (5)(a) by deleting the number "200" and
- 11 replacing it with "100".
- 12 (e) deleting subclause (5)(c) and substituting the following clause:-
- 13 "(c) prevent the State permitting the playing of the game
- 14 known as "two-up" on Anzac Day as defined in
- 15 section 3 of the *Anzac Day Act 1960*:
- 16 (i) in premises in any part of the State of The
- 17 Returned and Services League of Australia,
- 18 W.A. Branch, Incorporated or of any of its
- 19 affiliated sub branches and normally used for
- 20 social functions or activities of members of any
- 21 such organisation; or
- 22 (ii) at events or in premises that the Minister is
- 23 satisfied are sufficiently connected to the
- 24 celebration of Anzac Day;";
- 25 (f) inserting after subclause 5(c) the following new clause:-
- 26 "(d) prevent the State permitting under section 48 of the
- 27 *Gaming and Wagering Commission Act 1987* the
- 28 playing of the game known as "two-up" in any racing
- 29 club as defined in section 3 of the *Racing and*
- 30 *Wagering Western Australia Act 2003* that is:
- 31 (i) registered with "Racing and Wagering Western
- 32 Australia" under the *Racing and Wagering*
- 33 *Western Australia Act 2003*; and

1 (ii) within a radius in any direction of 100 kilometres
2 of the Burswood Casino,
3 provided that the Trustee consents to the playing of
4 "two up" in the racing club."

5 **5. Clause 23 amended**

6 Clause 23 of the State Agreement is amended by:-

7 (a) deleting subclause (1)(c) and substituting the following:-

8 “(c) subject to subclause 23(2), to the Board in respect of
9 each and every month an amount equal to the greater
10 of:

11 (i) \$83,334; or

12 (ii) the aggregate of:

13 (A) one per centum (1%) of Casino Taxable
14 Revenue for Table Games for the month;

15 (B) one per centum (1%) of Casino Taxable
16 Revenue for Fully Automated Table
17 Games for the month; and

18 (C) one per centum (1%) of Casino Taxable
19 Revenue for International Commission
20 Business for the month; and

21 (D) for each month during the period set out
22 in column 1 of the table in item 1 of
23 Schedule F, the Electronic Gaming
24 Machine Levy,

25 subject to item 2 of Schedule F, payment to be
26 made to the Board by monthly payments on, and
27 commencing on, the same dates as payments are
28 made to the Treasurer of the State pursuant to
29 paragraph (a)."

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1 (b) by inserting immediately after subclause (1A) the following
2 subclause:-

3 “(1B) (a) The Board shall from money received under
4 clause 23(1)(c) pay the sum of \$5,000,000 to
5 the Treasurer of the State for use in the
6 development of the Heirisson Island Sculpture
7 Park Project in such amounts (to a maximum of
8 \$5,000,000) and in such times as determined by
9 the Minister.

10 (b) Payments made under subclause (1B)(a) shall
11 only be made within a period of five years
12 from, and including, the date of the Twelfth
13 Supplementary Agreement.

14 **6. Schedule C amended**

15 Schedule C of the State Agreement is amended by:-

16 (a) inserting the following table in Schedule C Item 1, after the
17 "Table Game Tax" table:

18 **Fully Automated Table Game Tax**

Period	Fully Automated Table Game Tax
On and from 1 July 2011	22% of Casino Taxable Revenue for Fully Automated Table Games

19 (b) in the "Electronic Gaming Machine Tax" table in Schedule C
20 Item 1, below the row containing the words "20% of Casino
21 Taxable Revenue for Electronic Gaming Machines", inserting
22 the following rows:-

On and from 1 July 2011 to 30 June 2012	20.125% of Casino Taxable Revenue for Electronic Gaming Machines
On and from 1 July 2012 to 30 June 2013	20.25% of Casino Taxable Revenue for Electronic Gaming Machines
On and from 1 July 2013 to 30 June 2014	20.375% of Casino Taxable Revenue for Electronic Gaming Machines

On and from 1 July 2014 to 30 June 2015	20.5% of Casino Taxable Revenue for Electronic Gaming Machines
On and from 1 July 2015	20.625% of Casino Taxable Revenue for Electronic Gaming Machines

- 1 (c) by deleting Item 2 (2) in Schedule C and substituting the
2 following:-
- 3 "2 To give effect to the parties' agreement that the
4 Casino Tax Rates specified in this Schedule C take
5 effect from 1 July 2011:
- 6 (a) the Commission will determine the amount
7 equal to all of the Casino Taxes which would
8 have been payable for the period commencing
9 1 July 2011 and concluding on the last day of
10 the month within which this Agreement takes
11 effect, if this Agreement had taken effect on
12 1 July 2011;
- 13 (b) if the amount calculated under paragraph 2(a)
14 of this Item 2 is more than the actual amount
15 paid by the Trustee under clause 23(1)(a) of the
16 State Agreement for the period referred to in
17 paragraph 2(a), then the Trustee must pay the
18 difference between the two amounts to the
19 Treasurer at the same time and in the same
20 manner as the next monthly payment is due
21 under clause 23(1)(a); and
- 22 (c) if the amount calculated under paragraph 2(a)
23 of this Item 2 is less than the actual amount
24 paid by the Trustee under clause 23(1)(a) of the
25 State Agreement for the period referred to in
26 paragraph 2(a), then the difference between the
27 two amounts shall be set off against monthly
28 payments due under clause 23(1)(a) until it has
29 been set off in full."

Casino (Burswood Island) Agreement Amendment Bill 2011

Part 2

Casino (Burswood Island) Agreement Act 1985 amended

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1 AS WITNESS the execution of this Agreement by or on behalf of the parties
2 the day and year first hereinbefore written.
3
4 SIGNED by **THE**)
5 **HONOURABLE TERRENCE**)
6 **WALDRON MLA** for and on)
7 behalf of the State of Western)
8 Australia in the presence of:)
9
10
11 *J Nichols* *T Waldron*
12
13 Signature of witness Signature of THE
14 HONOURABLE
15 JON MARTIN NICHOLS TERRENCE WALDRON
16
17 Name of Witness
18
19
20
21
22 THE COMMON SEAL of)
23 **BURSWOOD NOMINEES**)
24 **LIMITED** (ACN 078 250 307))
25 was hereunto affixed by)
26 authority of the Board of) *D.S.*
27 Directors in the presence of:)
28
29
30 *B J Felstead* *A F McGregor*
31
32 Signature of authorised person Signature of authorised person
33
34 Director Secretary
35
36 Office held Office held
37
38 BARRY JOHN FELSTEAD ALAN FRANK MCGREGOR
39
40 Name of authorised person Name of authorised person

1	THE COMMON SEAL of)	
2	BURSWOOD RESORT)	
3	(MANAGEMENT) LIMITED)	
4	(ACN 009 396 945) was hereunto)	
5	affixed by authority of the Board)	C.S.
6	of Directors in the presence of:)	
7			
8			
9	<i>B J Felstead</i>		<i>A F McGregor</i>
10
11	Signature of authorised person		Signature of authorised person
12			
13	Director		Secretary
14
15	Office held		Office held
16			
17	BARRY JOHN FELSTEAD		ALAN FRANK MCGREGOR
18
19	Name of authorised person		Name of authorised person
20			

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

3 **7. Act amended**

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

6 **8. Section 46 amended**

7 After section 46(1) insert:
8

9 (2A) Gaming that is prescribed for the purposes of this
10 subsection may be lawfully conducted and lawfully
11 participated in.
12

13 **9. Section 80 amended**

14 In section 80(2) delete “200” and insert:
15

16 100
17

18 **10. Section 81 amended**

19 In section 81(1)(a) delete “200” and insert:
20

21 100
22

23 **11. Section 85 amended**

24 (1) In section 85(3)(b) delete “equipment, or” and insert:
25

26 equipment that the person is not entitled to
27 possess under this Act, or
28

1 (2) In section 85(4) delete “subsection (5),” and insert:

2

3 subsections (5) and (6A),

4

5 (3) After section 85(5) insert:

6

7 (6A) Subsection (4) does not apply to the possession of a
8 gaming machine or gaming equipment of a kind
9 referred to in that subsection, in prescribed
10 circumstances.

11

12

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