

## EXPLANATORY MEMORANDUM

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

#### OVERVIEW

The purpose of the Casino (Burswood Island) Agreement Amendment Bill 2011 is to ratify the Twelfth Supplementary Agreement, which in turn amends the State Agreement scheduled to the Casino (Burswood Island) Agreement Act 1985.

The Twelfth Supplementary Agreement amends the rate of Casino Tax payable on Electronic Gaming Machine revenues. Commencing 1 July 2011, the tax rate will increase in annual increments from 20% to 20.625%. The new tax rate is a composite of the rate of 20% based on 1,750 Electronic Gaming Machines and an increased rate on 250 Electronic Gaming Machines, calculated as follows:

1 July	Tax on 1,750 EGMs	Tax on 250 EGMs	Composite tax on 2,000 EGMs
2011	20%	21%	20.125%
2012	20%	22%	20.250%
2013	20%	23%	20.375%
2014	20%	24%	20.500%
2015	20%	25%	20.625%

A new casino tax rate of 22%, plus the levy of 1% payable to the Burswood Park Board, will apply to the revenue generated by Fully Automated Table Games.

The Supplementary Agreement provides for the Government to permit gaming on cruise ships whilst cruising in Western Australian waters and reduces the present prohibition on the playing of two-up within a 200 kilometre radius of Burswood Casino to 100 kilometres.

The Minister, with the consent of Burswood Nominees Limited, Trustee of the Burswood Property Trust, will also be able to approve the playing of two-up, in conjunction with a major sporting event or special occasion, at a racing club within a 100 kilometre radius of Burswood Casino.

The amendments will authorise the Burswood Park Board to pay up to \$5M for the development of the Heirisson Island Sculpture Park project, in such amounts and at such times as determined by the Minister.

The Bill makes consequential amendments to the Gaming and Wagering Commission Act 1987 in relation to the playing of two-up and introducing a regulation making power under the Gaming and Wagering Commission Act, to allow gaming on cruise ships whilst within Western Australian waters and for those same ships to possess gaming equipment.

## **CLAUSE NOTES**

### **Clause 1**

Names the Casino (Burswood Island) Agreement Amendment Act 2011 as the amending Act.

### **Clause 2**

Sets the commencement dates of the Act.

### **Clause 3**

Names the Casino (Burswood Island) Agreement Act 1985 as the principal Act.

### **Clause 4**

Sub-clauses (1) and (3) amend the definition of Agreement in section 3 of the principal Act to include the Twelfth Supplementary Agreement.

Sub-clause (2) defines the Twelfth Supplementary Agreement, a copy of which is set out in Schedule 13.

### **Clause 5**

Sub-clause (1) inserts a new section 4F that ratifies the Twelfth Supplementary Agreement and authorises its implementation.

Sub-clause (2) provides for the Twelfth Supplementary Agreement, to operate and take effect.

### **Clause 6**

Inserts Schedule 13, containing a copy of the Twelfth Supplementary Agreement.

## **SCHEDULE 13 - TWELFTH SUPPLEMENTARY AGREEMENT**

The State Agreement is between the Minister for Racing and Gaming, Burswood Nominees Ltd, as Trustee of the Burswood Property Trust and Burswood Resort (Management) Limited, as Manager of the Burswood Property Trust.

### **Recitals**

Cites the original Agreement (dated 20 February 1985) and all the amendments up to and including the Twelfth Supplementary Agreement and indicates that the parties have agreed to further amend the State Agreement.

### **Clause 1**

Outlines the intent of the definitions and interpretation.

## Clause 2

Acknowledges the State's commitment to securing the passage of the Casino (Burswood Island) Agreement Amendment Bill 2011 through the Parliament as an Act, so that the provisions of TWELFTH SUPPLEMENTARY AGREEMENT do not come into operation until the Casino (Burswood Island) Agreement Amendment Bill 2011 is passed by the Parliament and comes into operation as an Act.

## Clause 3

a) Amends the definition of:

- "Casino Tax" by inserting the words "Fully Automated Table Game Tax."
- "Casino Tax Activity" by inserting the words "Fully Automated Table Game."
- "Electronic Gaming Machine" by inserting "Fully Automated Table Game."
- "Electronic Gaming Machine Levy" by replacing the reference to subparagraph "23(1)(c)(ii)(C)" with " 23(1)(c)(ii)(D)."

b) Inserts the following definitions:

*"Cruise Ship"* means any vessel that:

- a) has a minimum capacity of 100 passengers; and
- b) is conducting a scheduled deep water cruise; and
- c) is transiting through Western Australian ports from and to locations overseas or interstate.

*"Fully Automated Table Game"* means any new game which is authorised under section 22 of the Casino Control Act and which the Gaming and Wagering Commission, by notice to the Trustee, specifies to be a Fully Automated Table Game.

*"Fully Automated Table Game Tax"* means the tax set out in the Fully Automated Table Game Tax table in Schedule C.

*"Heirisson Island Sculpture Park Project"* means the State Government of Western Australia's proposal to enhance Heirisson Island environmentally and artistically through environmental protection and conservation and through the display of sculptural artworks as set out in the Heirisson Island Sculpture Park Master Plan Report dated 9 June 2008.

## Clause 4

Amends clause 22 by:

- a) Inserting new sub-clause 4(b) so that the State is authorised to license or approve gaming in any cruise ship when outside a distance of 12 nautical miles from the Western Australian baseline.
- b) Amending sub-clause 5(a) so that the State is not prevented from permitting the playing of two-up outside a radius of 100 kilometres of the Burswood Casino.
- c) Amending subclause 5(c) to authorise the Minister to permit the playing of two-up at events or in premises which the Minister is satisfied are sufficiently connected to the celebration of Anzac Day at organisations not affiliated with the Returned Services League of Australia W.A. Branch.

- d) Inserting new sub-clause 5(d) that will, with consent of the Trustee, permit the State under section 48 of the Gaming and Wagering Commission Act 1987, to permit the playing of two-up, at any racing club registered with Racing and Wagering Western Australia under the Racing and Wagering Western Australian Act 2003, and the club is within 100 kilometre radius of Burswood Casino. Under section 48, approvals will be limited to such events as cup day, as it could be considered to be a major sporting event, a special occasion or an exceptional circumstance so determined by the Minister.

#### **Clause 5**

- a) Amends clause 23(1)(c) to include the payment of a levy each month to the Burswood Park Board of 1% of the Casino Tax on revenue for Fully Automated Table Games each month.
- b) Inserts a new sub-clause (1B) to authorise the Burswood Park Board to pay up to \$5M for the development of the Heirisson Island Sculpture Park project, in such amounts and such times as determined by the Minister.

#### **Clause 6**

- a) Amends Schedule C Item 1 by inserting a "Fully Automated Table Game Tax" table, for tax payable at the rate of 22% of taxable revenue, commencing on 1 July 2011.
- b) Inserts in the "Electronic Gaming Machine Tax" table in Schedule C Item 1, tax rates to apply to taxable revenue for Electronic Gaming Machines, commencing at 20.125% from 1 July 2011, increasing annually to 20.625% to apply from 1 July 2015.
- c) Item 2(2) is amended to ensure that the Casino Tax Rates specified in Schedule C take effect from 1 July 2011, so that in the event that the Supplementary Agreement takes effect after 1 July 2011, paragraphs (a), (b) and (c) provide for the Casino Taxes in Schedule C to take effect retrospectively from 1 July 2011, with the adjustments to be made in accordance with paragraphs (b) or (c).

#### **Clause 7**

Names the Gaming and Wagering Commission Act 1987 as the principal Act.

#### **Clause 8**

Inserts the legislative authority in section 46(2) for regulations to be made to permit gaming that is subject to the prohibitions contained in clause 22 of the State Agreement. The proposed regulation 8A permitting gaming on cruise ships outside a distance of 12 nautical miles from the Western Australian baseline will be in accordance with the new clause 22(4)(c) of the State Agreement inserted by clause 4 of this Bill.

#### **Clauses 9 & 10**

Deletes the reference to 200 kilometres in sections 80 (2) and 81(1)(a) of the Gaming and Wagering Commission Act, and inserts 100 kilometres as a consequence of the amendment to the State Agreement to permit the State, under section 48 of the Gaming and Wagering Commission Act 1987, to permit the playing of two-up at any racing club registered with Racing and Wagering Western Australia under the Racing and Wagering Western Australian Act 2003, and the club is within 100 kilometre radius of Burswood Casino. Under section 48, approvals will be limited to such events as cup day, as it could be considered to be a major sporting event, a special occasion or an exceptional circumstance so determined by the Minister (clause 4 of this Bill refers).

## Clause 11

- a) Amends section 85(3)(b) to clarify that a person in possession of an unlawful gaming machine or a kind of gaming equipment the use or possession of which contravenes a prohibition proclaimed under sub section (2), is equipment that the person is not entitled to possess under the Gaming and Wagering Commission Act.
- b) Inserts a reference to new sub section (6A) in section 85(4).
- c) Inserts sub section 6A in section 85 to provide a regulation making power to authorise the possession of unlawful gaming machines or a kind of gaming equipment the use or possession of which may contravene prohibition proclaimed under sub section (2). The prescribed circumstances will be the possession of unlawful gaming machines on cruise ships.