



THIRTY-EIGHTH PARLIAMENT

REPORT 40

**JOINT STANDING COMMITTEE ON DELEGATED
LEGISLATION**

***BETTING CONTROL AMENDMENT REGULATIONS (No. 4)
2009, CASINO CONTROL AMENDMENT REGULATIONS 2009,
CASINO CONTROL (BURSWOOD ISLAND) (LICENSING OF
EMPLOYEES) AMENDMENT REGULATIONS (No. 2) 2009,
GAMING AND WAGERING COMMISSION AMENDMENT
REGULATIONS 2009, RACING AND WAGERING WESTERN
AUSTRALIA AMENDMENT REGULATIONS 2009 AND LIQUOR
CONTROL AMENDMENT REGULATIONS (No. 7) 2009***

Presented by Mr Joe Francis MLA (Chairman)

and

Hon Robin Chapple MLC (Deputy Chairman)

May 2010

JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION

Date first appointed:

28 June 2001

Terms of Reference:

The following is an extract from Schedule 1 of the Legislative Council Standing orders:

3. Joint Standing Committee on Delegated Legislation

- 3.1 A *Joint Standing Committee on Delegated Legislation* is established.
- 3.2 The Committee consists of 8 Members, 4 of whom are appointed from each House. The Chairman must be a Member of the Committee who supports the Government.
- 3.3 A quorum is 4 Members of whom at least one is a Member of the Council and one a Member of the Assembly.
- 3.4 A report of the Committee is to be presented to each House by a Member of each House appointed for the purpose by the Committee.
- 3.5 Upon its publication, whether under section 41(1)(a) of the *Interpretation Act 1984* or another written law, an instrument stands referred to the Committee for consideration.
- 3.6 In its consideration of an instrument, the Committee is to inquire whether the instrument -
 - (a) is authorized or contemplated by the empowering enactment;
 - (b) has an adverse effect on existing rights, interests, or legitimate expectations beyond giving effect to a purpose authorized or contemplated by the empowering enactment;
 - (c) ousts or modifies the rules of fairness;
 - (d) deprives a person aggrieved by a decision of the ability to obtain review of the merits of that decision or seek judicial review;
 - (e) imposes terms and conditions regulating any review that would be likely to cause the review to be illusory or impracticable; or
 - (f) contains provisions that, for any reason, would be more appropriately contained in an Act.
- 3.7 In this clause -
 - “**adverse effect**” includes abrogation, deprivation, extinguishment, diminution, and a compulsory acquisition, transfer, or assignment;
 - “**instrument**” means -
 - (a) subsidiary legislation in the form in which, and with the content it has, when it is published;
 - (b) an instrument, not being subsidiary legislation, that is made subject to disallowance by either House under a written law;
 - “**subsidiary legislation**” has the meaning given to it by section 5 of the *Interpretation Act 1984*.

Members as at the time of this inquiry:

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Hon Robin Chapple MLC (Deputy Chairman)
Hon Alyssa Hayden MLC
Ms Janine Freeman MLA

Hon Jim Chown MLC
Mr Paul Miles MLA
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EXECUTIVE SUMMARY AND RECOMMENDATIONS FOR THE
REPORT OF THE JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION
IN RELATION TO THE

***BETTING CONTROL AMENDMENT REGULATIONS (No. 4) 2009, CASINO CONTROL
AMENDMENT REGULATIONS 2009, CASINO CONTROL (BURSWOOD ISLAND) (LICENSING OF
EMPLOYEES) AMENDMENT REGULATIONS (No. 2) 2009, GAMING AND WAGERING
COMMISSION AMENDMENT REGULATIONS 2009, RACING AND WAGERING WESTERN
AUSTRALIA AMENDMENT REGULATIONS 2009 AND LIQUOR CONTROL AMENDMENT
REGULATIONS (No. 7) 2009***

EXECUTIVE SUMMARY

- 1 The six instruments which are the subject of this report stood referred to this Committee on the dates upon which they were gazetted, according to the Committee's Terms of Reference.
 - 2 The instruments arose from the Department of Racing, Gaming and Liquor's Annual Review of its fees and charges for 2010. The various instruments propose increases to the fees by the amount specified in the Consumer Price Index.
 - 3 The Committee has previously set out its concerns with fee increases in its 32nd Report and this report raises similar issues in terms of the Committee's ongoing inquiry into the level of cost recovery behind fees set by government departments. This report does not re-examine the legal issues canvassed in Report 32, rather builds upon those principles in light of its ongoing cost recovery inquiry.
 - 4 The Committee has concerns that the amendment regulations may not be authorised or contemplated by the various empowering Acts, but has been unable to properly fulfil its scrutiny role due to the lack of meaningful information provided by the Department in relation to these fee increases.
 - 5 This report sets out the Committee's concerns with the instruments and its attempts to obtain the requested information from the Department. It also raises the issue of the ministerial certification process that came to the Committee's attention during the scrutiny of the above delegated legislation.
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RECOMMENDATIONS

6 Recommendations are grouped as they appear in the text at the page number indicated:

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Recommendation 1: The Committee recommends that the *Betting Control Amendment Regulations 2009 (No. 4)* be disallowed.

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Recommendation 2: The Committee recommends that the *Casino Control Amendment Regulations 2009* be disallowed.

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Recommendation 3: The Committee recommends that the *Casino Control (Burswood Island) (Licensing of Employees) Amendment Regulations (No. 2) 2009* be disallowed.

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Recommendation 4: The Committee recommends that the *Gaming and Wagering Commission Amendment Regulations 2009* be disallowed.

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Recommendation 5: The Committee recommends that the *Racing and Wagering Western Australia Amendment Regulations 2009* be disallowed.

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Recommendation 6: The Committee recommends that the *Liquor Control Amendment Regulations (No. 7) 2009* be disallowed.

REPORT OF THE JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION

IN RELATION TO THE

BETTING CONTROL AMENDMENT REGULATIONS (No. 4) 2009, CASINO CONTROL AMENDMENT REGULATIONS 2009, CASINO CONTROL (BURSWOOD ISLAND) (LICENSING OF EMPLOYEES) AMENDMENT REGULATIONS (No. 2) 2009, GAMING AND WAGERING COMMISSION AMENDMENT REGULATIONS 2009, RACING AND WAGERING WESTERN AUSTRALIA AMENDMENT REGULATIONS 2009 AND LIQUOR CONTROL AMENDMENT REGULATIONS (No. 7) 2009

1 INTRODUCTION

Reference and Procedure

- 1.1 The six instruments of subsidiary legislation which are the subject of this report all fall within the definition of ‘instrument’ in the Joint Standing Committee on Delegated Legislation’s (**the Committee**) Terms of Reference and they all stood referred to the Committee upon gazettal.¹
- 1.2 The instruments and various dates on which they were published in the *Western Australian Government Gazette* by the Government are as follows:
- *Betting Control Amendment Regulations (No. 4) 2009* gazetted on 30 October 2009;
 - *Casino Control Amendment Regulations 2009* gazetted on 30 October 2009;
 - *Casino Control (Burswood Island) (Licensing of Employees) Amendment Regulations (No. 2) 2009* gazetted on 30 October 2009;
 - *Gaming and Wagering Commission Amendment Regulations 2009* gazetted on 30 October 2009;
 - *Racing and Wagering Western Australia Amendment Regulations 2009* gazetted on 30 October 2009; and the
 - *Liquor Control Amendment Regulations 2009 (No. 7)* gazetted on 20 November 2009,

¹ Refer to the Committee’s Terms of Reference 3.5 and 3.7.

(collectively referred to as **the Amendment Regulations** in this report).

- 1.3 A copy of each of the instruments as they appeared in the *Western Australian Government Gazette* is attached to this report as **Appendix 1**.
- 1.4 Individual Explanatory Memoranda were provided to the Committee for each of the instruments, however, the purpose and general content of the various documents were almost identical. The Explanatory Memoranda for each of the Amendment Regulations are attached to this report as **Appendix 2**.

The nature of the fee increases

- 1.5 The Amendment Regulations provide for an increase in various fees and charges, a result of the Department of Racing, Gaming and Liquor's (**the Department**) annual review of its fees and charges. The Explanatory Memoranda contain a reference to section 53 of the *Financial Management Act 2006*, which states that:

Without limiting section 52, an accountable authority of an agency has the functions of -

(a) ensuring that the agency operates in a manner that is efficient and economic and achieves the agency's objectives; and

(b) ensuring that the agency complies with this Act, the Treasurer's instructions and any other written law that applies to the agency; and

(c) having the custody, control and management of, and accounting for, all the public property or other property under the control of the agency; and

(d) unless otherwise directed in writing by the Treasurer, developing and maintaining an effective internal audit function for the agency.²

- 1.6 The Explanatory Memoranda specifically state that one of the objectives of the Department's annual review of fees and charges is to ensure that fees and charges "achieve, or are making adequate progress towards achieving, full cost recovery".³
- 1.7 The Department further advises in the Explanatory Memoranda that liaison with the Department of Treasury and Finance resulted in a recommendation that a Consumer

² Section 53(1) of the *Financial Management Act 2006*.

³ Explanatory Memorandum for the *Racing and Wagering Western Australia Amendment Regulations 2009*, 12 November 2009, p2. Note that the Explanatory Memoranda for all seven Amendment Regulations contain this same quote on page two: see Appendix 2 of this report.

Price Index (**CPI**) of 4.20 per cent should be applied to the fees which the Department sought to review.⁴

- 1.8 The Department also provided copies of a document not required under the Premier's Circular 2007/14, entitled *Certification to the Department of Treasury and Finance in respect of tariffs, fees and charges*, which formed part of the Explanatory Memoranda. This document contains the statements below:

- *I have reviewed all tariffs, fees and charges levied by this agency;*
- *No fees form part of the "household model";*
- *The methodology for costing of individual services (and setting of fees) is materially accurate;*
- *There are no cases of fees where the revenue projections for that service indicate that greater than 100% cost recovery will be achieved;*
- *There are no issues that are otherwise contentious or high profile; and*
- *No new fees are proposed.*

- 1.9 This certification is signed by both the Director General of the Department and the Minister for Racing and Gaming.

Committee scrutiny

- 1.10 In order to fulfil its scrutiny role, the Committee is required to determine whether a fee is authorised or contemplated by the empowering Act: Term of Reference 3.6(a).
- 1.11 The Committee's approach to scrutinising fees was succinctly outlined in its 10th Report as follows:

The Committee's scrutiny of fees generally involves identifying whether the prescription of the fee in the instrument is expressly or impliedly authorized by the primary Act. If so, the Committee attempts to identify whether the quantum of the fee:

- *(where the fee is to be paid for a service) bears a reasonable relationship to the costs of providing that service;*

⁴ *Ibid.*, p2.

or

- (where the fee is to be paid for a licence) bears a reasonable relationship to the costs incurred in establishing or administering the scheme or system under which the licence is issued, or is incurred in respect of matters to which the licence relates.

*Where the Committee receives evidence that the quantum of the fee does not satisfy the above criteria, in the absence of any criteria to the contrary, it views the fee as being in the nature of a tax. The Committee will recommend disallowance of an instrument if it prescribes, without the authority of an Act of Parliament, a fee which in reality is a tax.*⁵ [current Committee's emphasis]

1.12 The Committee noted in its 32nd Report that:

*Adoption of a cost recovery policy by a government is not of itself sufficient to confer validity on imposts imposed to that outcome. Through the terms of the Acts it passes, Parliament sets parameters on implementation of policy by subsidiary legislation.*⁶

1.13 Advice that a fee has increased by CPI does not in itself provide the Committee with sufficient information to establish the necessary relationships set out at paragraph 1.11, above.

1.14 On initial consideration of the fees, the Committee formed the preliminary view that it had not been provided with sufficient information to enable it to carry out its scrutiny role to determine whether the fee increases proposed in these Amendment Regulations are authorised or, alternatively, amount to unauthorised taxes.

⁵ Parliament of Western Australia, Legislative Council, Joint Standing Committee on Delegated Legislation, Report 10, *Report of the Joint Standing Committee on Delegated Legislation in relation to the Overview of the Committee's Operations: Second Session of the Thirty-Sixth Parliament (August 2002 to November 2004)*, 19 November 2004, p7.

⁶ Parliament of Western Australia, Legislative Council, Joint Standing Committee on Delegated Legislation, Report 32, *Supreme Court (Fees) Amendment Regulations (No. 2) 2008, Children's Court (Fees) Amendment Regulations (No. 2) 2008, District Court (Fees) Amendment Regulations 2008, Magistrates Court (Fees) Amendment Regulations (No. 2) 2008, Fines, Penalties and Infringement Notices Enforcement Amendment Regulations (No. 2) 2007 and Other Court Fee Instruments*, 14 May 2009, p59.

Correspondence between the Committee and the Department

1.15 The Committee first wrote to the Department on 11 November 2009 to request further information in relation to four of the Amendment Regulations.⁷ The letter requested information as to the basis for the fee increases, noting that there was reference to the fee increases “*making adequate progress towards achieving full cost recovery*”.⁸ The Committee’s letter is attached to this report as **Appendix 3**.

1.16 The Department responded on 24 November 2009 and its response is attached as **Appendix 4**. Notably, the Department’s letter advised that:

*All fees contained in the instruments ... are based on the original fees established at the time of the relevant instrument coming into operation. In this regard, it is difficult to establish (in most instances), the original fee due to the date the legislation came into operation and the relevant records being stored off-site.*⁹

1.17 The Department’s letter further specified that the *Betting Control Amendment Regulations (No. 4) 2009*, the *Casino Control Amendment Regulations 2009* and the *Gaming and Wagering Commission Amendment Regulations 2009* fees were not structured on a cost recovery model.¹⁰

1.18 As the various Amendment Regulations were being scrutinised concurrently by two of the Committee’s Advisory Officers, the Committee then sent simultaneous letters to the Department in relation to the instruments on 2, 8 and 16 December 2009, all requesting the same further information:

- a breakdown of the costs per unit of fee, if one was available;
- a comparison between the cost of the service and the fee charged;
- the level of cost recovery for the service; and
- whether any cross subsidisation was occurring.

1.19 The above letters are attached to this report at **Appendix 5**, **Appendix 6** and **Appendix 7**, respectively.

⁷ *Betting Control Amendment Regulations (No. 4) 2009*, *Casino Control Amendment Regulations 2009*, *Casino Control (Burswood Island) (Licensing of Employees) Amendment Regulations (No. 2) 2009* and the *Gaming and Wagering Commission Amendment Regulations 2009*.

⁸ Explanatory Memoranda for the above instruments, p1.

⁹ Letter from the Director General of the Department of Racing, Gaming and Liquor, 24 November 2009, p1.

¹⁰ *Ibid.*, p2.

- 1.20 The Department's final response on 30 December 2009 related to all seven Amendment Regulations and is attached to this report as **Appendix 8**. The salient points in the Department's response are quoted here:

The Department currently does not have the resources to undertake a full scale assessment on individual components making up the fees and charges for the above mentioned instruments; that is, comparing the costs for providing the service against the relevant fee charged.

I advise that while the Department continues to receive an appropriation from the consolidated fund (currently \$3.8 million), the majority of fees charged under the various instruments are below cost recovery.¹¹

Discussion

- 1.21 In summary, the Department has provided the Committee with the following advice:
- The Amendment Regulations are based on the original fees established at the time of the relevant instruments coming into operation.
 - The Department is unable to establish what the original fees were due to the fact that the legislation was enacted in the past and the fact that the records are stored off-site.
 - Three of the fees set out in the Amendment Regulations are not structured on a cost recovery model.
 - The Department does not have the resources to undertake a full scale assessment of the individual components making up the fees found in the Amendment Regulations.
 - The majority of the fees are under cost recovery.
- 1.22 The details provided in response to the Committee's inquiries were not sufficient to enable the Committee to establish a nexus between the fees charged and the cost of the services.

¹¹ Letter from the Director General of the Department of Racing, Gaming and Liquor, 30 December 2009, p1.

- 1.23 Similarly, on the basis of the advice provided, the Committee was not able to ascertain whether any cross-subsidisation of fees was occurring.¹²
- 1.24 An assurance from the Department that the majority of fees are below cost recovery does not replace accurate information setting out the level of cost recovery for each individual fee. On the information provided, the Committee is unable to satisfy itself that over-recovery is not occurring for individual fees.

2 COST RECOVERY INQUIRY

- 2.1 Under the Committee's terms of reference, the Committee is required to examine the calculation of fees and charges to determine whether they are authorised or contemplated by the empowering enactment. The Committee has ongoing concerns in relation to the methodology used by government departments to calculate fees and charges.
- 2.2 This concern has led to the Committee's ongoing inquiry into cost recovery. As part of this inquiry, the Committee has held hearings with the Auditor General and the Department of Treasury and Finance. It is within this context that the Committee is examining the Amendment Regulations.
- 2.3 The Committee notes that the Department provided to the Committee a copy of the ministerial certification as to fees and charges. The significance of this document was the subject of discussion in both of the hearings referred to below.

Hearing with the Auditor General

- 2.4 Mr Colin Murphy, Auditor General and Mr Glen Clarke, Deputy Auditor General, appeared before the Committee on 3 August 2009. The full transcript of the hearing is publicly available on the Committee's website at <http://www.parliament.wa.gov.au/index.htm>.
- 2.5 At the hearing, the Auditor General and the Deputy Auditor General outlined the purpose of the financial audits that they carry out on government departments. The Auditor General specifically advised that his fundamental role is "*reporting to Parliament and carrying out audits*".¹³

¹² Cross-subsidisation of fees occurs where a department or agency charges fees which over-recover in order to subsidise other fees which under-recover. This issue was discussed in *AirServices Australia v Canadian Airlines International Limited* (1999) 202 CLF 133 at pp189-90, where Gaudron J commented that "*It is not sufficient that the charge be levied to defray the expenses of an authority charged with the performance of functions which benefit the class of persons from whom it is exacted. There must be 'particular identified services provided or rendered individually to, or at the request or direction of, the particular person required to make the payment'*".

¹³ Mr Colin Murphy, Auditor General, *Transcript of Evidence*, 3 August 2009, p1.

- 2.6 The Auditor General also clarified his involvement in the process through which departments and agencies set their fees and made it clear that the issue of identifying whether a fee was authorised by the empowering legislation did not form part of his role:

*First, it is very important to note that our financial audits, which involve auditing the accounts of every agency every year, do not specifically address the issue of identifying whether fees are over-recovering, under-recovering or are in accordance with the legislation. That is not part of a normal financial audit.*¹⁴

- 2.7 The Committee noted the requirement for a ministerial certification relating to fees and charges¹⁵. The Committee asked the Auditor General if he was aware of a process to ensure that departments have a cost recovery model in place. In his evidence, the Auditor General stated that:

*I believe that Treasury has addressed the issue by identifying that the responsibility [that is, to ensure that departments comply with cost recovery policy] is with the accountable authority within the agency and enshrining that within a Treasurer's Instruction making it very, very clear that the accountable authority has responsibility ... it is now required that the chief executive officer provide a certification about the fees each year. I understand it is signed off by the minister as well.*¹⁶

- 2.8 The Auditor General also advised the Committee that, although managed by the Department of Treasury and Finance, the requirement for the certification document originally came out of a performance report tabled by the Auditor General in 2004.¹⁷
- 2.9 The requirement for departments and agencies to prepare a cost recovery certification for all of their fees and charges is therefore not a new one, and one on which the Auditor General has reported as far back as 2004¹⁸. The Auditor General made it clear

¹⁴ *Ibid.*, p3.

¹⁵ Western Australia, Department of Treasury and Finance, *Costing and Pricing of Government Services: Guidelines for use by Agencies in the WA Public Sector*, 5th edition, April 2007, paragraph 1.3.

¹⁶ Mr Colin Murphy, Auditor General, *Transcript of Evidence*, 3 August 2009, pp3-4.

¹⁷ Western Australia, Auditor General, *Third Public Sector Performance Report*, Report No. 6, 22 September 2004, p15.

¹⁸ The Auditor General has tabled two reports in 2004 and 2006 (see footnote 17 above and Western Australia Auditor General, *Second Public Sector Performance Report*, 30 August 2006, Report No. 8) which explain his view that government departments should not be operating over cost recovery. The Auditor General's 2006 report reiterated his position at page 35, that is:

fees should reasonably reflect the cost of providing services unless there is some overriding economic or social policy objective. If the fee significantly exceeds cost then it may amount to a tax, and as such, the agency may lack the necessary legal

to the Committee during the hearing that one of the purposes of his compliance reports is so that “government agencies get a sense of what the Auditor General thinks is important”.¹⁹

- 2.10 At the hearing, the Committee again raised the question of government departments over-recovering with the Auditor General and sought his opinion on the issue:

***Ms J.M. FREEMAN:** Have you got any idea to what extent this might be a systemic problem throughout agencies in terms of reports or agencies?*

***Mr Murphy:** My short answer would have to be: no, I do not. But I would say that we are encouraged by our follow-up report in 2006. One of the purposes of our compliance reports is so that government agencies get a sense of what the Auditor General thinks is important. We like to provide information within those reports about what is considered good practice and what practices need to be improved.*

*By reporting to Parliament in that way, all agencies are put on notice about what my expectations are. I believe that simply reporting twice to Parliament puts agencies on notice so that they are aware of their requirements. Secondly, I noted improvement between 2004 and 2006. While I do not know what the state is, I am very hopeful from those two points that it is actually getting better.*²⁰

Hearing with the Department of Treasury and Finance

- 2.11 The Committee asked representatives from the Department of Treasury and Finance (DTF) to appear before it to enable the Committee to gain a better understanding of the interaction between DTF and government departments in relation to fee increases.
- 2.12 Mr Michael Barnes, Deputy Under Treasurer and Mr Sean Cameron, Acting Executive Director of Strategic Policy and Evaluation appeared before the Committee on 22 February 2010. The full transcript of the hearing is publicly available on the Committee’s website at <http://www.parliament.wa.gov.au/index.htm>.
- 2.13 The Committee drew the Deputy Under Treasurer’s attention to its previous public hearing with the Auditor General and referred to the ministerial certification process that the Auditor General had mentioned in his evidence. The Deputy Under Treasurer confirmed that the ministerial certification process was introduced in 2005 following

authority. For this reason, agencies need to have reasonably accurate estimates of the cost of their services.

¹⁹ Mr Colin Murphy, Auditor General, *Transcript of Evidence*, 3 August 2009, p10.

²⁰ *Ibid.*, p11.

the Auditor General's 2004 report and that it forms "a very key component of the setting of fees and charges as part of each year's budget process".²¹

- 2.14 The Deputy Under Treasurer explained the significance of the ministerial certification as a means of ensuring the integrity of fee increases within departments and agencies:

This certification puts the accountability onto the director general of the agency or the accountable authority of the agency, and the relevant minister, to confirm in writing that they have reviewed all tariffs, fees and charges; that the methodology for the costing of individual services and the setting of fees is materially accurate; and that there are no cases of fees where the revenue projections indicate that greater than 100 per cent cost recovery is achieved ...

*[The] aim of the certification is to place accountability on the accountable authority of the agency and on the minister; we rely on that accountability.*²² [Committee emphasis added]

- 2.15 In its discussion of the contents of the ministerial certification, the Committee sought to confirm with the Deputy Under Treasurer that DTF did not undertake any compliance activity to check the contents of the certification; that is, to confirm that the fees being increased were authorised by the empowering legislation or based on cost recovery. The Deputy Under Treasurer confirmed that this is not part of DTF's role.

- 2.16 The Committee asked the Deputy Under Treasurer if he saw any merit in the process if there was no ongoing system of audits or checks and he responded that:

It is part of the accountable authority's legal accountability to do this and sign off on that certification. If I was a director general or a CEO of an agency and I was putting advice in writing to my minister and asking my minister to countersign it, I would certainly make sure that that advice was 100 per cent accurate.

*It is amazing if that is not the case.*²³

- 2.17 The Committee advised the Deputy Under Treasurer that it scrutinised many regulations from government departments and agencies purporting to increase fees and charges by CPI, with no other justification for the increase. Mr Andrew Waddell MLA noted that:

²¹ Mr Michael Barnes, Deputy Under Treasurer, *Transcript of Evidence*, 22 February 2010, p2.

²² *Ibid.*, pp3-4.

²³ *Ibid.*, p5.

In a number of instances, the justification that comes before us is simply, “We are grossly under recovery. We are probably under-recovering 10 per cent of our actual costs. We have not done the full calculation, but we know that an increase based on the CPI will take us one step closer, although we do not know how much closer.”²⁴

- 2.18 The Deputy Under Treasurer expressed the view to the Committee that this is worrying in a certification process that expressly requires the accountable authority and the Minister to certify that such reviews do take place annually.²⁵

Ministerial Certification

- 2.19 The Committee is concerned at the disparity that it has noted between the information which has been provided in the Explanatory Memoranda to the Amendment Regulations and the ministerial certification document referred to in paragraph 1.8. The Committee put this discrepancy to the Minister for Racing and Gaming in order to seek his comment on the issue. The Committee’s letter to the Minister of 30 March 2010 is attached to this report at **Appendix 9**.

- 2.20 In April 2010, the Committee received a response from the Department on behalf of the Minister, which is attached to this report at **Appendix 10**.

- 2.21 In his response, the Director General of the Department advised that the ministerial certification document in December 2008:

*was an accurate reflection of the review of fees and charges undertaken by the Department that complied with the criteria set out by the Department of Treasury and Finance for reviewing government tariffs and fees and charges.*²⁶

- 2.22 The Committee’s request to the Minister was in relation to information provided to him by the Department itself and the Committee notes that a response was provided by the Department and not the Minister. The Director General is only able to provide the Committee with information based on his role within the ministerial certification process, which does not adequately address the Committee’s concerns in relation to the disparity of information in the document.

- 2.23 The Director General has further advised in his response on behalf of the Minister that a change in proposed liquor licensing fees was approved by the Minister in October 2009. The Committee notes that this relates to only one of the instruments which form part of the Amendment Regulations. This does not address the issue of the

²⁴ *Ibid.*, p6.

²⁵ *Ibid.*, p7.

²⁶ Letter from the Director General of the Department of Racing, Gaming and Liquor, 8 April 2010, p1.

discrepancy of information for the other Amendment Regulations. The Committee had an opportunity to raise these issues at its hearing with the Director General on 27 April 2010, discussed in further detail at paragraph 2.31, below.

- 2.24 The Director General's response on behalf of the Minister has not provided the Committee with any further insight into the Minister's role in the certification process, nor has it revealed the Minister's own thoughts on the discrepancies noted above.

The Committee's stance on Unauthorised Fee Increases

- 2.25 The Committee has previously made its view clear in regards to the question of whether a licence fee constitutes a fee for service or an unauthorised tax in its comprehensive 32nd report, tabled in May 2009.²⁷
- 2.26 As a consequence, in the absence of meaningful information to reveal the actual cost of providing these services, the Committee is unable to rule out the possibility that the Amendment Regulations may amount to unauthorised taxes.

Further submissions from the Department

- 2.27 On 14 April 2010, the Committee received a submission from the Director General of the Department in relation to the Amendment Regulations. This submission is attached to this report as **Appendix 11**.
- 2.28 The Director General's submission provided background information to the structure and functions of the various bodies which operate under the auspices of the Department but did not provide any further statistical information relating to the individual fees which are the subject of this disallowance report.
- 2.29 The important information to note from the Director General's submission is as follows:
- The fees for casino employee and key employee licence renewals were established in 1999 and were structured on 100 per cent cost recovery (no data was provided in the Director General's submission).²⁸
 - Liquor licensing fees were originally introduced in 1989 to be consistent with fees imposed by liquor authorities in other States and were not based on a model of cost recovery. The 2009 liquor licensing fees formed the basis of establishing "*cost recovery benchmarks*" but did not take into account the full

²⁷ Full reference at footnote 6, above.

²⁸ Letter from the Director General of the Department of Racing, Gaming and Liquor, dated 8 April 2010, received 14 April 2010, p2.

costs of providing the service, such as compliance costs and “*indirect costs*”.²⁹

- Liquor licensees are expected to share in the cost of establishing and maintaining the regulatory function of the regulatory regime. This forms part of the liquor licensing fee.³⁰
- The Gaming and Wagering Commission of Western Australia (**the Commission**) does not receive any support from the Consolidated Revenue Fund. The Commission is self-funding and “*sets its fees to cover its total operating costs*”³¹.
- With the exception of the casino employee fees mentioned in the first bullet point, “*the fees contained in the subject instruments do not achieve full cost recovery when taking into account the cost of the compliance function*”.³²

2.30 The Director General’s submission advises that disallowance of the Amendment Regulations would impact upon the revenue raised by the Commission and the Tribunal and “*likely lead to greater increases in the future*”.³³ The Committee expects that any future fee increases would be based on a cost recovery model, which would therefore justify an increase in fees, if appropriate.

Hearing with the Director General of the Department

2.31 Mr Barry Sargeant, the Director General of the Department, appeared before the Committee on 27 April 2010. The full transcript of the hearing is publicly available on the Committee’s website at <http://www.parliament.wa.gov.au/index.htm>.

2.32 The Director General requested a hearing with the Committee to clarify the information that he had provided in his submission. At the hearing, the Director General provided the Committee with background information relating to the functions of the Department, the Commission and the Tribunal as mentioned in his submission. The Committee took the opportunity to question the Director General on the specific fees the subject of this report and the ministerial certification process.

2.33 In regards to the issue of cross-subsidisation, the Committee raised this issue with the Director General during the hearing:

²⁹ *Ibid.*, p2.

³⁰ *Ibid.*, p3.

³¹ *Ibid.*, p4.

³² *Ibid.*, p5.

³³ *Ibid.*, p5.

Mr A.J. WADDELL: ... What assurance can you give the committee that one fee is not subsidising another?

Mr Sargeant: I cannot give you that assurance without undertaking a detailed analysis. You will appreciate that I have to decide where to put my resources. Some of you may be aware that often the department is criticised for the time it takes to process matters. I must choose where to put my resources and I put them into processing applications rather than checking the detail of the fee. I cannot give you that assurance. Although I cannot give you that assurance, based on my experience, I do not think our fees are grossly cross-subsidising.³⁴

...

Hon JIM CHOWN: How can you verify the statements that you are not cross-subsidising the fees to the satisfaction of this committee? In reality, we need to be satisfied as such. I do not see why your department should be given special dispensation on this issue when we are getting it from other departments.

Mr Sargeant: I am being honest with you. I have not done an analysis.³⁵

- 2.34 The Committee notes that no empirical data on the actual cost to the Department of the fees discussed in this report has ever been collated or analysed and that the Director General's evidence is based on his experience in the 18 years that he has been an employee within the Department. The Committee acknowledges the Director General's considerable knowledge of the Department but maintains that this cannot take the place of a full-scale analysis of the Department's costs and revenue.
- 2.35 The Director General made a statement during the course of the hearing in relation to a review of the Department's fees and charges:

Mr Sargeant: What I will be doing now is, irrespective of what the committee decides to do in relation to the allowance of the fees, I will be looking to get that project done so that by the time we come back at the end of this year for some more fee structures, I will have that information.³⁶

³⁴ Mr Barry Sargeant, Director General, Department of Racing, Gaming and Liquor, *Transcript of Evidence*, 27 April 2010, p5.

³⁵ *Ibid.*, p6.

³⁶ *Ibid.*, p13.

- 2.36 During the hearing, the Committee raised the issue of the Director General's response to its letter of 30 March 2010 to the Minister. The Committee asked the Director General if he had discussed his response with the Minister before submitting it to the Committee:

Mr Sargeant: What happened was that the Minister was not in Perth at the time when the deadline came forward, so I said to the Minister that I am prepared to send a response - this was to the Minister's office, his staff - and I will provide a copy of what I am saying, and then when the Minister comes back - I think he might have been down at his electorate - he can respond. I cannot determine what the Minister decided to do. I know that he read my response.³⁷

- 2.37 The Committee raises this passage as it emphasises the concerns it has raised in this report with the integrity and value of the process of ministerial certification.

Issues arising from the hearing

- 2.38 The hearing with the Director General has resulted in the Director General providing a written undertaking to assess the Department's fees and charges as part of its next review, however, the Committee notes the length of time and difficulty it faced in achieving this undertaking.
- 2.39 The Committee expresses its disappointment that it was hampered in fulfilling its scrutiny role by the repeated requests for information regarding the Amendment Regulations and lack of meaningful information from the Department regarding the level of costs being recovered by these fees. The Committee still cannot determine with any certainty that the instruments are not over-recovering costs, cross-subsidising other fees or in fact, being cross-subsidised by other fees. That information has not been provided to the Committee.
- 2.40 The Committee acknowledges that a review of its fees and charges represents a significant task for the Department, but reiterates that this is an essential requirement to ensure the accountability and transparency of all government departments in this State.

3 CONCLUSION

Findings

- 3.1 In light of the above, the Committee has made the following findings in relation to the Amendment Regulations which are the subject of this report:

³⁷ *Ibid.*, p9.

- The fee increases contained in the Amendment Regulations may amount to unauthorised taxes in breach of the Committee's Term of Reference 3.6(a), as there may not be a reasonable relationship between the cost of administering the fees and the revenue raised.
- The Committee is unable to properly fulfil its scrutiny role as the Department has not provided it with the requested information to reveal the level of cost recovery behind the instruments the subject of this report.
- The Department has not complied with the ministerial certification process as described by DTF, as this document certifies that the Department's costing methodology is "*materially accurate*" and that "*there are no cases of fees where ... greater than 100% cost recovery will be achieved*". The Department has repeatedly advised the Committee that it does not have this information.³⁸

3.2 Further to the above, the Committee has made the following general findings in relation to the ministerial certification process outlined by DTF:

- The ministerial certification process relies upon departments providing accurate information regarding their cost recovery models, however this is not verified by a third party, except for financial audits conducted by the Auditor General.
- DTF has expressed concern that the information which is provided to it in the ministerial certification may not always be accurate, however, it does not have the resources to monitor every department's and agency's compliance with the process.³⁹
- The Committee has observed a discrepancy between the depth of information which has been provided in the ministerial certification document and the explanatory material to the Amendment Regulations.
- The Parliament relies on the reports of the Auditor General as a significant source of information about the functioning of government departments. As such, in the Committee's view, the capacity for the Auditor General to review departmental costing models is pivotal to Parliamentary oversight of fees and charges.

3.3 Notwithstanding that this report relates to the disallowance of the Amendment Regulations, the Committee takes the opportunity to draw the attention of the House to the comments of the Auditor General and DTF in relation to the requirement for a

³⁸ See paragraph 1.21 of this report.

³⁹ The Committee notes that this issue was previously raised in the Auditor General's *Second Public Sector Performance Report*, 30 August 2006, Report No. 8, p42.

full cost recovery analysis and ministerial certification. The Committee has concluded that greater emphasis needs to be placed on the importance of the ministerial certification document to ensure that the integrity of the certification is not compromised.

3.4 The Committee notes that, under its current Terms of Reference, the Committee's scrutiny powers are limited to instruments of subsidiary legislation as and when they are gazetted.

3.5 The comments above apply to all government departments and agencies. Ministerial certification is a safeguard for the members of the community who pay fees to these departments and agencies.

Recommendations

3.6 Accordingly, the Committee makes the following recommendations:

Recommendation 1: The Committee recommends that the *Betting Control Amendment Regulations 2009 (No. 4)* be disallowed.

Recommendation 2: The Committee recommends that the *Casino Control Amendment Regulations 2009* be disallowed.

Recommendation 3: The Committee recommends that the *Casino Control (Burswood Island) (Licensing of Employees) Amendment Regulations (No. 2) 2009* be disallowed.

Recommendation 4: The Committee recommends that the *Gaming and Wagering Commission Amendment Regulations 2009* be disallowed.

Recommendation 5: The Committee recommends that the *Racing and Wagering Western Australia Amendment Regulations 2009* be disallowed.

Recommendation 6: The Committee recommends that the *Liquor Control Amendment Regulations (No. 7) 2009* be disallowed.



Hon Robin Chapple MLC

Deputy Chairman

18 May 2010

APPENDIX 1
WESTERN AUSTRALIAN GOVERNMENT GAZETTE
NOTICES

APPENDIX 1

WESTERN AUSTRALIAN GOVERNMENT GAZETTE NOTICES

Page 1

Betting Control Act 1954

Betting Control Amendment Regulations (No. 4) 2009

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Betting Control Amendment Regulations (No. 4) 2009*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on 1 January 2010.

3. Regulations amended

These regulations amend the *Betting Control Regulations 1978*.

4. Regulation 17 amended

(1) In regulation 17(1):

- (a) in paragraph (ab) delete “\$60;” and insert:

\$65;

- (b) in paragraph (ac) delete “\$300;” and insert:

\$310;

- (c) in paragraph (a) delete “\$595;” and insert:

\$620;

- (d) in paragraph (b) delete “\$25;” and insert:

\$30;

- (e) in paragraph (ba) delete “\$145;” and insert:

\$150;

Page 2

(f) in paragraph (c) delete “\$140;” and insert:

\$145;

(g) in paragraph (e) delete “\$25;” and insert:

\$30;

(h) in paragraph (f) delete “\$550.” and insert:

\$575.

(2) In regulation 17(2) delete “\$90.” and insert:

\$95.

(3) In regulation 17(3) delete “\$90.” and insert:

\$95.

5. Regulation 17A amended

In regulation 17A(1):

(a) in paragraph (a)(i) delete “\$315;” and insert:

\$340;

(b) in paragraph (a)(ii) delete “\$635;” and insert:

\$685;

(c) in paragraph (a)(iii) delete “\$955;” and insert:

\$1 030;

By Command of the Governor,

PETER CONRAN, Clerk of the Executive Council.

Casino Control Act 1984

Casino Control Amendment Regulations 2009

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Casino Control Amendment Regulations 2009*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on 1 January 2010.

3. Regulations amended

These regulations amend the *Casino Control Regulations 1999*.

4. Regulation 4 amended

In regulation 4 delete “\$125.” and insert:

\$135.

By Command of the Governor,

PETER CONRAN, Clerk of the Executive Council.

Casino Control Act 1984

**Casino Control (Burswood Island) (Licensing of
Employees) Amendment Regulations
(No. 2) 2009**

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Casino Control (Burswood Island)
(Licensing of Employees) Amendment Regulations (No. 2) 2009*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on 1 January 2010.

3. Regulations amended

These regulations amend the *Casino Control (Burswood Island)
(Licensing of Employees) Regulations 1985*.

4. Regulation 6 amended

- (1) In regulation 6(1):
 - (a) in paragraph (a) delete “\$380; and” and insert:

\$400; and
 - (b) in paragraph (b) delete “\$240.” and insert:

\$250.
- (2) In regulation 6(1a):
 - (a) in paragraph (a) delete “\$105; and” and insert:

\$110; and
 - (b) in paragraph (b) delete “\$105.” and insert:

\$110.
- (3) In regulation 6(2)(a) delete “\$275;” and insert:

Page 2

\$290;

By Command of the Governor,

PETER CONRAN, Clerk of the Executive Council.

Gaming and Wagering Commission Act 1987

**Gaming and Wagering Commission Amendment
Regulations 2009**

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Gaming and Wagering Commission Amendment Regulations 2009*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on 1 January 2010.

3. Regulations amended

These regulations amend the *Gaming and Wagering Commission Regulations 1988*.

4. Regulation 4 amended

Delete regulation 4(1) and insert:

- (1) The fees specified in Schedule 1 are payable for the matters listed in that Schedule.

5. Schedule 1 replaced

Delete Schedule 1 and insert:

Schedule 1 — Prescribed fees

[r. 4]		
Item	Description	Fee \$
1.	Search of the register for an identified entry	7.50
2.	Copy of extract from register	14
3.	Application for a function permit for —	
	(a) an item of gaming equipment (r. 18B(2)(a))	30

Item	Description	Fee \$
	(b) a class of gaming equipment (r. 18B(2)(b))	55
4.	Application for a permit of a continuing nature for —	
	(a) a video lottery terminal (r. 18AA(7))	30
	(b) an item of gaming equipment (r. 18B(2)(a))	55
	(c) a class of gaming equipment (r. 18B(2)(b))	105
5.	Application for a function permit for —	
	(a) bingo	20
	(b) multiple bingo, for each premises	20
	(c) simultaneous bingo, for each premises	20
	(d) a standard lottery —	
	(i) where the total retail value of prizes or prize money does not exceed \$5 000	30
	(ii) otherwise	70
	(da) a standard lottery of a kind generally known or described as a Calcutta	70
	(e) a continuing lottery	15
	(f) gaming (per day authorised) —	
	(i) 1-5 tables	195
	(ii) 6-10 tables	320
	(iii) over 10 tables	390
	(g) two-up —	
	(i) by a country race club	135
	(ii) otherwise	195
6.	Application for a permit of a continuing nature for —	
	(a) bingo	30
	(b) multiple bingo, for each premises	30
	(c) simultaneous bingo, for each premises	30
	(d) a standard lottery, where the total retail value of prizes or prize money is —	
	(i) not more than \$5 000	45
	(ii) more than \$5 000 but not more than \$50 000	100

Item	Description	Fee \$
	(iii) more than \$50 000 but not more than \$100 000	190
	(iv) more than \$100 000 but not more than \$200 000	390
	(v) more than \$200 000	650
	(da) a standard lottery of a kind generally known or described as a Calcutta	135
	(e) a continuing lottery	25
	(f) gaming (per day authorised) —	
	(i) 1-5 tables	160
	(ii) 6-10 tables	290
	(iii) over 10 tables	355
	(g) two-up —	
	(i) by a country race club, per day authorised	105
	(ii) otherwise, per day authorised	160
7.	Application for approval of premises for —	
	(a) a specific function	20
	(b) functions from time to time	70
	(c) permit of a continuing nature	70
8.	Issue of a certificate under section 92 relating to —	
	(a) multiple bingo	135
	(b) simultaneous bingo	135
	(c) assisting in the conduct of bingo, for hire or reward	135
9.	Issue of an approved operator's certificate	215
10.	Issue of a certificate under section 88(5)	280
11.	Application to be a licensed supplier	260
12.	Approval to operate, or remove money from, gaming equipment	25

By Command of the Governor,

PETER CONRAN, Clerk of the Executive Council.

Racing and Wagering Western Australia Act 2003

**Racing and Wagering Western Australia
Amendment Regulations 2009**

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Racing and Wagering Western Australia Amendment Regulations 2009*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on 1 January 2010.

3. Regulations amended

These regulations amend the *Racing and Wagering Western Australia Regulations 2003*.

4. Schedule 1 amended

- (1) In Schedule 1 item 1 delete “380” and insert:

400

- (2) In Schedule 1 item 2 delete “105” and insert:

110

By Command of the Governor,

PETER CONRAN, Clerk of the Executive Council.

Liquor Control Act 1988

Liquor Control Amendment Regulations (No. 7) 2009

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Liquor Control Amendment Regulations (No. 7) 2009*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on 1 January 2010.

3. Regulations amended

These regulations amend the *Liquor Control Regulations 1989*.

4. Regulation 26 amended

- (1) In regulation 26(1aa):

- (a) in paragraph (a) delete “\$105.00; or” and insert:

\$200; or

(b) in paragraph (b) delete “\$205.00.” and insert:

\$400.

(2) In regulation 26(1b) after “equal to” insert:

half

5. Schedule 3 replaced

Delete Schedule 3 and insert:

Schedule 3 — Fees

[r. 11, 18B and 26]

Item	Description	Fee \$	Electronic lodgment fee \$
1.	Application for the grant or removal of a hotel licence, nightclub licence, casino liquor licence, special facility licence or liquor store licence	2 750	2 475
2.	Application for the grant or removal of a club licence, restaurant licence, producer's licence or wholesaler's licence	750	675
3.	Application for the transfer of a licence	750	
4.	Licence fee for any licence other than a club restricted licence	500	
5.	Licence fee for a club restricted licence	250	
6.	Application for an occasional licence where the anticipated number of persons attending* is — (a) up to 250 (b) between 251 and 500 (c) between 501 and 1 000 (d) between 1 001 and 5 000 (e) between 5 001 and 10 000 (f) over 10 000 [*See regulation 26(4) as to the anticipated number of persons attending]	50 100 200 1 000 2 000 4 000	
7.	Application for extended trading permit for a period of over 21 days — (a) issued for a purpose referred to in section 60(4)(ca)	400	360

Item	Description	Fee \$	Electronic lodgment fee \$
	(b) issued for a purpose referred to in section 60(4)(h)	300	270
	(c) issued for any other purpose	1 000	900
8.	Application for extended trading permit for a period of 21 days or less — (a) for each day	100 (up to a max. of 1 000)	
	(b) for each occasion within that period that includes times extending beyond 12 midnight on a Saturday or beyond 10 p.m. on a Sunday (in addition to the fee calculated under paragraph (a)).....	100	
9.	Application for approval of manager after licence is granted — (a) under licence other than club licence or club restricted licence	140	
	(b) under club licence	95	
	(c) under club restricted licence	30	
10.	Application for approval of person in position of authority — (a) under licence other than club licence or club restricted licence	140	
	(b) under club licence or club restricted licence	95	
11.	Application for approval for alteration or redefinition of licensed premises	320	295
12.	Application for a protection order under section 87(1)	200	
13.	Application for duplicate licence	35	
14.	Application for approval of change of name of licensed premises	70	
15.	Application to add, vary or cancel condition of licence or permit (other than club restricted licence) — (a) for a period of over 21 days	200	180
	(b) for a period of 21 days or less — for each day	100 (up to a max. of 1 000)	

Item	Description	Fee \$	Electronic lodgment fee \$
16.	Application to add, vary or cancel condition of club restricted licence	40	
17.	Application under section 62(6) to vary any plans or specifications the subject of a condition	240	215
18.	Application for approval of agreement or arrangement	200	
19.	Application under section 126A for approval of entertainment for juveniles on licensed premises	60	
20.	Application for Proof of Age Card	25	
21.	Supply of a list of licensed premises or a list of owners of licensed premises	80	
22.	Supply of a list of licensed premises on computer disk	50	
23.	Supply of address labels for licensed premises	120	
24.	Supply of approved heading for advertising an application	25	
25.	Supply of copy of plan — for each sheet	25 (up to a max. of 200)	
26.	Supply of certified copy of plan defining licensed premises	35	
27.	Supply of copy of a licence, a permit or a decision of the Commission (or the former Liquor Licensing Court) or the Director	25	
28.	For the certification of a copy of a licence, a permit or a decision of the Commission (or the former Liquor Licensing Court) or the Director	25	
	[In addition to the fee under item 26]		
29.	Supply of copy of documentation, other than that already prescribed, per page	5	
30.	Issue of a summons to a witness	20	
31.	For a search of the database of records of licences — per licence	35	
32.	For a full search of a licence record	45	

Item	Description	Fee \$	Electronic lodgment fee \$
33.	For a search of postcodes —		
	(a) 1 to 10 postcodes	35	
	(b) more than 10 postcodes	75	

By Command of the Governor,

R. KENNEDY, Clerk of the Executive Council.

APPENDIX 2
EXPLANATORY MEMORANDA TO THE AMENDMENT
REGULATIONS

APPENDIX 2

EXPLANATORY MEMORANDA TO THE AMENDMENT REGULATIONS



Government of **Western Australia**
Department of **Racing, Gaming and Liquor**

Our References: F02/21/01-04
Enquiries: Hans Fan Der Linden
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Postal Address: PO Box 6119
EAST PERTH WA 6892

SUBSIDIARY LEGISLATION – EXPLANATORY NOTE

This explanatory memorandum has been prepared as an aid to understanding and must not be substituted for any part of the submission nor made available for public information.

This memo is to be signed and returned to the Department of Racing, Gaming and Liquor for referral to the Joint Standing Committee on Delegated Legislation.

BETTING CONTROL AMENDMENT REGULATIONS (No.4) 2009 – ANNUAL REVIEW OF FEES AND CHARGES

Title of Subsidiary Legislation

Attachment 1 is an extract from the *Government Gazette* in which the *Betting Control Amendment Regulations (No.4) 2009* were published.

Approval Process

The Minister for Racing and Gaming provided certification (attachment 2), dated 21 December 2008, to the Department of Treasury and Finance (DTF) in relation to the review of fees and charges.

Regulation making power

Section 33(1)(b) of the *Betting Control Act 1954* empowers the making of regulations, including the prescribing of fees and charges.

Purposes of the amendments to the subsidiary legislation

In accordance with the provision of sections 53 of the *Financial Management Act 2006* agencies are required to ensure that they operate in a manner that is efficient and economic and achieves the agency's objectives.

In addition, the Department of Treasury and Finance (DTF) requires, in relation to the review of fees and charges, certification by the Minister.

The objectives of regular reviews are to ensure that government tariffs, fees and charges:

- (a) are reflective of movements in the inflation rate;
- (b) achieve, or are making adequate progress towards achieving, full cost recovery;
- (c) are fair, equitable and recognise household capacity to pay;
- (d) are competitive, in comparison to service providers locally and in other jurisdictions; and
- (e) are comprehensive, such that new tariffs, fees and charges are designed and introduced in a timely manner as considered appropriate by government.

The Minister for Racing and Gaming signed the certification to DTF on 21 December 2008.

For this review, DTF advised that a Consumer Price Index of 4.20 per cent should be applied. The fees and charges prescribed in the *Betting Control Act 1954* have been reviewed in accordance with the rate determined by DTF.

In addition, those fees that have not increased in past reviews due to minimal impact of the growth rate, have been reassessed by applying accumulated growth. In cases where there has been sufficient accumulated growth to exceed a five dollar increase, or enable rounding to the nearest five dollars, those fees have been increased. However, the CPI rate is always applied to the notional fee and not the rounded up fee.

In accordance with the requirements of Premier's Circular 2007/14 a schedule summarising the changes to the fees is attached (Attachment 3).

Consultation

The Department of Racing, Gaming and Liquor liaised with the Department of Treasury and Finance in relation to the review of the fees and charges.

Relation to Policy


The proposed amendments are consistent with Sections 53 of the *Financial Management Act 2006*.

Sensitivity

The amendments are not considered to be sensitive or to include any unusual or controversial provisions.

National Competition Policy

The proposed amendments are not contrary to the principles of National Competition Policy.


Barry A Sargeant
DIRECTOR GENERAL

6 October 2009

[Enc].

Noted.

 9 / 10 / 2009
Hon TERRY WALDRON MLA
MINISTER FOR RACING AND GAMING



Government of Western Australia
Department of Racing, Gaming and Liquor

CERTIFICATION TO THE DEPARTMENT OF TREASURY AND FINANCE
IN RESPECT OF TARIFFS, FEES AND CHARGES

DEPARTMENT OF RACING, GAMING & LIQUOR

Except as indicated herewith, I declare that:

- I have reviewed all tariffs, fees and charges levied by this agency;
- No fees form part of the "household model";
- The methodology for costing of individual services (and setting of fees) is materially accurate;
- There are no cases of fees where the revenue projections for that service indicate that greater than 100% cost recovery will be achieved;
- There are no issues that are otherwise contentious or high profile; and
- No new fees are proposed.

Director General

Date 12 / December / 2008

Minister

Date 21 / 12 / 2008

	Last Increase	Gazetted Fee 1/01/2009	2008/09 Notional Fee	% Increase	\$ Increase	2009/10 Notional Fee	Projected Fee 1/01/2010	Actual % Increase	Accumulative CPI since Last Increase	Justify Y / N
Casino Control Act 1984										
1. Application for a casino key employee licence*	1/01/2009	380.00	379.27	4.20%	15.93	395.20	400.00	5.26%	4.20%	Y
2. Application for a casino employee licence	1/01/2009	240.00	238.40	4.20%	10.01	248.41	250.00	4.17%	4.20%	Y
3. Application for renewal of a casino key employee licence	1/01/2009	105.00	105.26	4.20%	4.42	109.68	110.00	4.76%	4.20%	Y
4. Application for renewal of a casino employee licence	1/01/2009	105.00	105.26	4.20%	4.42	109.68	110.00	4.76%	4.20%	Y
5. Application for a casino key employee licence by holder of a casino employee licence*	1/01/2009	275.00	276.33	4.20%	11.61	287.94	290.00	5.45%	4.20%	Y
6. Application for a person who resumes employment at the Casino within 4 months of ceasing	1/01/2009	105.00	105.26	4.20%	4.42	109.68	110.00	4.76%	4.20%	Y
7. Fee for a casino key employee licence or a casino employee licence required under regulation 4(4) to permit his or her fingerprints or palm prints to be taken/recorded [Fees 1 to 7 above are set in the Casino Control (Burswood Island) (Licensing of Employees) Regulations 1985]	1/01/2008	45.00	44.32	4.20%	1.86	46.18	45.00	0.00%		Y
8. Fee for review of direction not to enter or remain in the casino	1/01/2008	125.00	127.31	4.20%	5.35	132.66	135.00	8.00%	7.60%	Y
9. Casino Gaming Licence Fee	1/01/2009	Calculated on the Sept CPI formula to commence 1 Jan								
Racing and Wagering Western Australia Act 2003										
1. Application for a RWWA key employee licence	1/01/2009	380.00	379.27	4.20%	15.93	395.20	400.00	5.26%	4.20%	Y
2. Application for a RWWA director's licence	1/01/2009	380.00	379.27	4.20%	15.93	395.20	400.00	5.26%	4.20%	Y
3. Application for renewal of a RWWA key employee licence	1/01/2009	105.00	105.26	4.20%	4.42	109.68	110.00	4.76%	4.20%	Y
4. Application for a renewal of a RWWA director's employee licence	1/01/2009	105.00	105.26	4.20%	4.42	109.68	110.00	4.76%	4.20%	Y
5. RWWA Annual Fee	1/07/2008	Annual fee determined by the Commission to meet costs of the Commission in regulating RWWA.								
Betting Control Act 1954										
1. Grant of a permit under section 4A for a designated sporting event	1/01/2008	40.00	40.58	4.20%	1.70	42.28	40.00	0.00%		Y
2. On the endorsement of a permit authorising the holder to carry on business by means of an on-course telephone betting	1/01/2008	60.00	61.15	4.20%	2.57	63.72	65.00	8.33%	7.60%	Y
3. On the endorsement of a permit authorising the holder to carry on business by means of an on-course internet betting	1/01/2009	300.00	298.00	4.20%	12.52	310.52	310.00	3.33%	4.20%	Y

	Last Increase	Gazetted Fee 1/01/2009	2008/09 Notional Fee	% Increase	\$ Increase	2009/2010 Notional Fee	Projected Fee 1/01/2010	Actual % Increase	Accumulative CPI since Last Increase	Justify Y / N
4. On an application for approval to use a computer betting ledger system	1/01/2009	65.00	63.77	4.20%	2.68	66.45	65.00	0.00%		Y
5. Application for a bookmaker's licence	1/01/2009	595.00	596.00	4.20%	25.03	621.03	620.00	4.20%	4.20%	Y
5. On an application for, or for renewal of, a bookmaker's employee licence	1/01/2004	25.00	28.99	4.20%	1.22	30.21	30.00	20.00%	19.25%	Y
7. For an appeal to the Board in connection with a betting dispute	1/01/2009	140.00	139.15	4.20%	5.84	144.99	145.00	3.57%	4.20%	Y
8. On provision of a copy of a transcript of an appeal hearing, for each page	1/01/2008	4.00	4.05	4.20%	0.17	4.22	4.00	0.00%		Y
9. On applying for issue of duplicate licence	1/01/2004	25.00	28.99	4.20%	1.22	30.21	30.00	20.00%	19.25%	Y
10. Bookmaker's annual licence fee on total - (a) turnover not exceeding \$250,000	1/01/2009	315.00	325.09	4.20%	13.65	338.74	340.00	7.94%	4.20%	Y
(b) turnover greater than \$250,000 but not exceeding \$1,000,000	1/01/2009	635.00	655.60	4.20%	27.54	683.14	685.00	7.87%	4.20%	Y
(c) turnover greater than \$1,000,000	1/01/2009	955.00	986.11	4.20%	41.42	1027.53	1030.00	7.85%	4.20%	Y
11. On-course totalisator annual licence fee - (a) on total turnover not exceeding \$10,000	no fee									
(b) on total turnover greater than \$10,000 but not exceeding \$135,000	1/01/2008	40.00	40.58	4.20%	1.70	42.28	40.00	0.00%		Y
(c) on total turnover greater than \$135,000	% of turnover									
12. Application bookmaker's manager licence	1/01/2009	145.00	143.22	4.20%	6.02	149.24	150.00	3.45%	4.20%	Y
13. Renewal bookmaker's manager's licence	1/01/2009	80.00	77.58	4.20%	3.26	80.84	80.00	0.00%		Y
14. Application for partnership (bookmaker)	1/01/2009	90.00	89.52	4.20%	3.76	93.28	95.00	5.56%	4.20%	Y
15. Application for membership on body corporate	1/01/2009	90.00	89.52	4.20%	3.76	93.28	95.00	5.56%	4.20%	Y
16. Application by an offshore betting operator exemption under S27A	1/01/2009	550.00	552.65	4.20%	23.21	575.86	575.00	4.55%	4.20%	Y
OTHER										
1. Lotterywest Costs										
Not considered under this review	1/07/2008	250026.00								

Betting Control Amendment Regulations (No.4) 2009

Old Fee – this relates to the fee published in the Government Gazette that came into operation on 1 January 2009.

New Fee – this is the fee to apply from 1 January 2010 and is derived from applying CPI to the 2008/09 notional fee and then rounded up (where applicable) to the next closest \$5.

Notional Fee – is the real fee applying CPI but without the effects of rounding. In some cases, the notional fee is higher than the gazetted fee and therefore is reflected in the percentage movement between the Old and New fees when CPI is applied in the following year(s).

Type of fee	Effective date of last increase	Old fee (\$) (1-Jan-09)	2008/09 Notional Fee (\$)	2009/10 Notional Fee (\$)	New fee (\$)	Increase/Decrease (%)	Accumulated CPI since last increase (%)
On the endorsement of a permit authorising the permit holder to carry on business by means of on-course telephone betting	1-Jan-2008	60.00	61.15	63.72	65.00	8.33	7.60
On the endorsement of a permit authorising the permit holder to carry on business by means of on-course internet betting	1-Jan-09	300.00	298.00	310.52	310.00	3.33	4.20
On an application for a bookmaker's licence	1-Jan-09	595.00	596.00	621.03	620.00	4.20	4.20
On an application for, or for renewal of, a bookmaker's employee licence	1-Jan-04	25.00	28.99	30.21	30.00	20.00	19.25
For an appeal to the Commission in connection with a betting dispute	1-Jan-09	140.00	139.15	144.99	145.00	3.57	4.20
On an application by an offshore betting operator for an exemption under section 27A of the Act	1-Jan-09	550.00	552.65	575.86	575.00	4.55	4.20

On applying for issue of duplicate licence	1-Jan-04	25.00	28.99	30.21	30.00	20.00	19.25
Bookmaker's annual licence fee on total -							
(a) turnover not exceeding \$250,000	1-Jan-09	315.00	325.09	338.74	340.00	7.94	4.20
(b) turnover greater than \$250,000 but not exceeding \$1,000,000	1-Jan-09	635.00	655.60	683.14	685.00	7.87	4.20
(c) turnover greater than \$1,000,000	1-Jan-09	955.00	986.11	1027.53	1030.00	7.85	4.20
Application for partnership (bookmaker)	1-Jan-09	90.00	89.52	93.28	95.00	5.56	4.20
Application for bookmaker's manager licence	1-Jan-09	145.00	143.22	149.24	150.00	3.45	4.20
Application for approval to occupy position of authority in a body corporate (bookmaker)	1-Jan-09	90.00	89.52	93.28	95.00	5.56	5.56



Government of **Western Australia**
Department of **Racing, Gaming and Liquor**

Our References: F02/21/01-04
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EAST PERTH WA 6892

SUBSIDIARY LEGISLATION – EXPLANATORY NOTE

This explanatory memorandum has been prepared as an aid to understanding and must not be substituted for any part of the submission nor made available for public information.

This memo is to be signed and returned to the Department of Racing, Gaming and Liquor for referral to the Joint Standing Committee on Delegated Legislation.

CASINO CONTROL AMENDMENT REGULATIONS 2009 – ANNUAL REVIEW OF FEES AND CHARGES

Title of Subsidiary Legislation

Attachment 1 is an extract from the *Government Gazette* in which the *Casino Control Amendment Regulations 2009* were published.

Approval Process

The Minister for Racing and Gaming provided certification (attachment 2), dated 21 December 2008, to the Department of Treasury and Finance (DTF) in relation to the review of fees and charges.

Regulation making power

Section 37 (2) (a) and Schedule 2 of the *Casino Control Act 1984* empowers the making of regulations, including the prescribing of fees and charges.

Purposes of the amendments to the subsidiary legislation

In accordance with the provisions of sections 53 of the *Financial Management Act 2006* agencies are required to ensure that they operate in a manner that is efficient and economic and achieved the agency's objectives.

In addition, the Department of Treasury and Finance (DTF) requires, in relation to the review of fees and charges, certification by the Minister.

The objectives of regular reviews are to ensure that government tariffs, fees and charges:

- (a) are reflective of movements in the inflation rate;
- (b) achieve, or are making adequate progress towards achieving, full cost recovery;
- (c) are fair, equitable and recognise household capacity to pay;
- (d) are competitive, in comparison to service providers locally and in other jurisdictions; and
- (e) are comprehensive, such that new tariffs, fees and charges are designed and introduced in a timely manner as considered appropriate by government.

The Minister for Racing and Gaming signed the certification to DTF on 21 December 2008.

For this review, DTF advised that a Consumer Price Index of 4.20 per cent should be applied. The fees and charges prescribed in the *Casino Control Act 1984* have been reviewed in accordance with the rate determined by DTF.

In addition, those fees that have not increased in past reviews due to minimal impact of the growth rate have been reassessed by applying accumulated growth. In cases where there has been sufficient accumulated growth to exceed a five dollar increase, or enable rounding to the nearest five dollars, those fees have been increased. However, the CPI rate is always applied to the notional fee and not the rounded up fee.

In accordance with the requirements of Premier's Circular 2007/14 a schedule summarising the changes to the fees is attached (Attachment 3).

Consultation

The Department of Racing, Gaming and Liquor liaised with the Department of Treasury and Finance in relation to the review of the fees and charges.

Relation to Policy

The proposed amendments are consistent with Section 53 of the *Financial Management Act 2006*.

Sensitivity

The amendments are not considered to be sensitive or to include any unusual or controversial provisions.

National Completion Policy

The proposed amendments are not contrary to the principles of National Competition Policy.


Barry Sargent
DIRECTOR GENERAL

6 October 2009

[Enc].

Noted.

 9 / 10 / 2009
Hon TERRY WALDRON MLA
MINISTER FOR RACING AND GAMING



Government of **Western Australia**
Department of Racing, Gaming and Liquor

CERTIFICATION TO THE DEPARTMENT OF TREASURY AND FINANCE
IN RESPECT OF TARIFFS, FEES AND CHARGES

DEPARTMENT OF RACING, GAMING & LIQUOR

Except as indicated herewith, I declare that:

- I have reviewed all tariffs, fees and charges levied by this agency;
- No fees form part of the "household model";
- The methodology for costing of individual services (and setting of fees) is materially accurate;
- There are no cases of fees where the revenue projections for that service indicate that greater than 100% cost recovery will be achieved;
- There are no issues that are otherwise contentious or high profile; and
- No new fees are proposed.

Director General

Date 12 / December / 2008

Minister

Date 21 / 12 / 2008

	Last Increase	Gazetted Fee 1/01/2009	2008/09 Notional Fee	% Increase	\$ Increase	2009/10 Notional Fee	Projected Fee 1/01/2010	Actual % Increase	Accumulative CPI since Last Increase	Justify Y / N
Casino Control Act 1984										
1. Application for a casino key employee licence*	1/01/2009	380.00	379.27	4.20%	15.93	395.20	400.00	5.26%	4.20%	Y
2. Application for a casino employee licence	1/01/2009	240.00	238.40	4.20%	10.01	248.41	250.00	4.17%	4.20%	Y
3. Application for renewal of a casino key employee licence	1/01/2009	105.00	105.26	4.20%	4.42	109.68	110.00	4.76%	4.20%	Y
4. Application for renewal of a casino employee licence	1/01/2009	105.00	105.26	4.20%	4.42	109.68	110.00	4.76%	4.20%	Y
5. Application for a casino key employee licence by holder of a casino employee licence*	1/01/2009	275.00	276.33	4.20%	11.61	287.94	290.00	5.45%	4.20%	Y
6. Application for a person who resumes employment at the Casino within 4 months of ceasing	1/01/2009	105.00	105.26	4.20%	4.42	109.68	110.00	4.76%	4.20%	Y
7. Fee for a casino key employee licence or a casino employee licence required under regulation 4(4) to permit his or her fingerprints or palm prints to be taken/recorded <i>[Fees 1 to 7 above are set in the Casino Control (Burswood Island) Regulations 1985]</i>	1/01/2008	45.00	44.32	4.20%	1.86	46.18	45.00	0.00%		Y
8. Fee for review of direction not to enter or remain in the casino	1/01/2008	125.00	127.31	4.20%	5.35	132.66	135.00	8.00%	7.60%	Y
9. Casino Gaming Licence Fee	1/01/2009	Calculated on the Sept CPI formula to commence 1 Jan								
Racing and Wagering Western Australia Act 2003										
1. Application for a RWWA key employee licence	1/01/2009	380.00	379.27	4.20%	15.93	395.20	400.00	5.26%	4.20%	Y
2. Application for a RWWA director's licence	1/01/2009	380.00	379.27	4.20%	15.93	395.20	400.00	5.26%	4.20%	Y
3. Application for renewal of a RWWA key employee licence	1/01/2009	105.00	105.26	4.20%	4.42	109.68	110.00	4.76%	4.20%	Y
4. Application for a renewal of a RWWA director's employee licence	1/01/2009	105.00	105.26	4.20%	4.42	109.68	110.00	4.76%	4.20%	Y
5. RWWA Annual Fee	1/07/2008	Annual fee determined by the Commission to meet costs of the Commission in regulating RWWA.								
Betting Control Act 1954										
1. Grant of a permit under section 4A for a designated sporting event	1/01/2008	40.00	40.58	4.20%	1.70	42.28	40.00	0.00%		Y
2. On the endorsement of a permit authorising the holder to carry on business by means of an on-course telephone betting	1/01/2008	60.00	61.15	4.20%	2.57	63.72	65.00	8.33%	7.60%	Y
3. On the endorsement of a permit authorising the holder to carry on business by means of an on-course internet betting	1/01/2009	300.00	298.00	4.20%	12.52	310.52	310.00	3.33%	4.20%	Y

Casino Control Amendment Regulations 2009

Old Fee – this relates to the fee published in the Government Gazette that came into operation on 1 January 2009.

New Fee – this is the fee to apply from 1 January 2010 and is derived from applying CPI to the 2008/09 notional fee and then rounded up (where applicable) to the next closest \$5.

Notional Fee – is the real fee applying CPI but without the effects of rounding. In some cases, the notional fee is higher than the gazetted fee and therefore is reflected in the percentage movement between the Old and New fees when CPI is applied in the following year(s).

Type of fee	Effective date of last increase	Old Fee (\$) (1-Jan-09)	2008/09 Notional Fee (\$)	2009/10 Notional Fee (\$)	New Fee (\$) (1-Jan-10)	Increase/Decrease (%)	Accumulated CPI since last increase (%)
Fee for review of direction not to enter or remain in the casino	1-Jan-08	125.00	127.31	132.66	\$135.00	8.00	7.60



Government of **Western Australia**
Department of **Racing, Gaming and Liquor**

Our References: F02/21/01-04
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E-mail: Hans.Fanderlinden@rgl.wa.gov.au
Postal Address: PO Box 6119
EAST PERTH WA 6892

SUBSIDIARY LEGISLATION – EXPLANATORY NOTE

This explanatory memorandum has been prepared as an aid to understanding and must not be substituted for any part of the submission nor made available for public information.

This memo is to be signed and returned to the Department of Racing, Gaming and Liquor for referral to the Joint Standing Committee on Delegated Legislation.

CASINO CONTROL (BURSWOOD ISLAND) (LICENSING OF EMPLOYEES) AMENDMENT REGULATIONS (No.2) 2009– ANNUAL REVIEW OF FEES AND CHARGES

Title of Subsidiary Legislation

Attachment 1 is an extract from the *Government Gazette* in which the *Casino Control (Burswood Island) (Licensing of Employees) Amendment Regulations (No.2) 2009* were published.

Approval Process

The Minister for Racing and Gaming provided certification (attachment 2), dated 21 December 2008, to the Department of Treasury and Finance (DTF) in relation to the review of fees and charges.

Regulation making power

Section 37 (2) (a) and Schedule 2 of the *Casino Control Act 1984* empowers the making of regulations, including the prescribing of fees and charges.

Purposes of the amendments to the subsidiary legislation

In accordance with the provisions of section 53 of the *Financial Management Act 2006* agencies are required to ensure that they operate in a manner that is efficient and economic and achieves the agency's objectives.

In addition, Department of Treasury and Finance (DTF) requires, in relation to the review of fees and charges, certification by the Minister.

The objectives of regular reviews are to ensure that government tariffs, fees and charges:

- (a) are reflective of movements in the inflation rate;
- (b) achieve, or are making adequate progress towards achieving, full cost recovery;
- (c) are fair, equitable and recognise household capacity to pay;
- (d) are competitive, in comparison to service providers locally and in other jurisdictions; and
- (e) are comprehensive, such that new tariffs, fees and charges are designed and introduced in a timely manner as considered appropriate by government.

The Minister for Racing and Gaming signed the certification to DTF on 21 December 2008.

For this review, DTF advised that a Consumer Price Index of 4.20 per cent should be applied. The fees and charges prescribed in the *Casino Control Act 1984* have been reviewed in accordance with the rate determined by DTF.

In addition, those fees that have not increased in past reviews due to minimal impact of the growth rate have been reassessed by applying accumulated growth. In cases where there has been sufficient accumulated growth to exceed a five dollar increase, or enable rounding to the nearest five dollars, those fees have been increased. However, the CPI rate is always applied to the notional fee and not the rounded up fee.

In accordance with the requirements of Premier's Circular 2007/14 a schedule summarising the changes to the fees is attached (Attachment 3).

Consultation

The Department of Racing, Gaming and Liquor liaised with the Department of Treasury and Finance in relation to the review of the fees and charges.

Relation to Policy

The proposed amendments are consistent with Section 53 of the *Financial Management Act 2006*.

Sensitivity

The amendments are not considered to be sensitive or to include any unusual or controversial provisions.

National Competition Policy

The proposed amendments are not contrary to the principles of National Competition Policy.


Barry A Sargeant
DIRECTOR GENERAL

6 October 2009

[Enc]

Noted.



9 / 10 / 2009

Hon TERRY WALDRON MLA
MINISTER FOR RACING AND GAMING



Government of Western Australia
Department of Racing, Gaming and Liquor

CERTIFICATION TO THE DEPARTMENT OF TREASURY AND FINANCE
IN RESPECT OF TARIFFS, FEES AND CHARGES

DEPARTMENT OF RACING, GAMING & LIQUOR

Except as indicated herewith, I declare that:

- I have reviewed all tariffs, fees and charges levied by this agency;
- No fees form part of the "household model";
- The methodology for costing of individual services (and setting of fees) is materially accurate;
- There are no cases of fees where the revenue projections for that service indicate that greater than 100% cost recovery will be achieved;
- There are no issues that are otherwise contentious or high profile; and
- No new fees are proposed.

Director General

Date 12 / December / 2008

Minister

Date 21 / 12 / 2008

	Last Increase	Gazetted Fee 1/01/2009	2008/09 Notional Fee	% Increase	\$ Increase	2009/10 Notional Fee	Projected Fee 1/01/2010	Actual % Increase	Accumulative CPI since Last Increase	Justify Y / N
Casino Control Act 1984										
1. Application for a casino key employee licence*	1/01/2009	380.00	379.27	4.20%	15.93	395.20	400.00	5.26%	4.20%	Y
2. Application for a casino employee licence	1/01/2009	240.00	238.40	4.20%	10.01	248.41	250.00	4.17%	4.20%	Y
3. Application for renewal of a casino key employee licence	1/01/2009	105.00	105.26	4.20%	4.42	109.68	110.00	4.76%	4.20%	Y
4. Application for renewal of a casino employee licence	1/01/2009	105.00	105.26	4.20%	4.42	109.68	110.00	4.76%	4.20%	Y
5. Application for a casino key employee licence by holder of a casino employee licence*	1/01/2009	275.00	276.33	4.20%	11.61	287.94	290.00	5.45%	4.20%	Y
6. Application for a person who resumes employment at the Casino within 4 months of ceasing	1/01/2009	105.00	105.26	4.20%	4.42	109.68	110.00	4.76%	4.20%	Y
7. Fee for a casino key employee licence or a casino employee licence required under regulation 4(4) to permit his or her fingerprints or palm prints to be taken/recorded	1/01/2008	45.00	44.32	4.20%	1.86	46.18	45.00	0.00%		Y
[Fees 1 to 7 above are set in the Casino Control (Burswood Island) Regulations 1985]										
8. Fee for review of direction not to enter or remain in the casino	1/01/2008	125.00	127.31	4.20%	5.35	132.66	135.00	8.00%	7.60%	Y
9. Casino Gaming Licence Fee	1/01/2009	Calculated on the Sept CPI formula to commence 1 Jan								
Racing and Wagering Western Australia Act 2003										
1. Application for a RWWA key employee licence	1/01/2009	380.00	379.27	4.20%	15.93	395.20	400.00	5.26%	4.20%	Y
2. Application for a RWWA director's licence	1/01/2009	380.00	379.27	4.20%	15.93	395.20	400.00	5.26%	4.20%	Y
3. Application for renewal of a RWWA key employee licence	1/01/2009	105.00	105.26	4.20%	4.42	109.68	110.00	4.76%	4.20%	Y
4. Application for a renewal of a RWWA director's employee licence	1/01/2009	105.00	105.26	4.20%	4.42	109.68	110.00	4.76%	4.20%	Y
5. RWWA Annual Fee	1/07/2008	Annual fee determined by the Commission to meet costs of the Commission in regulating RWWA.								
Betting Control Act 1954										
1. Grant of a permit under section 4A for a designated sporting event	1/01/2008	40.00	40.58	4.20%	1.70	42.28	40.00	0.00%		Y
2. On the endorsement of a permit authorising the holder to carry on business by means of an on-course telephone betting	1/01/2008	60.00	61.15	4.20%	2.57	63.72	65.00	8.33%	7.60%	Y
3. On the endorsement of a permit authorising the holder to carry on business by means of an on-course internet betting	1/01/2009	300.00	298.00	4.20%	12.52	310.52	310.00	3.33%	4.20%	Y

Casino Control (Burswood Island)(Licensing of Employees) Amendment Regulations (No.2) 2009

Old Fee – this relates to the fee published in the Government Gazette that came into operation on 1 January 2009.

New Fee – this is the fee to apply from 1 January 2010 and is derived from applying CPI to the 2008/09 notional fee and then rounded up (where applicable) to the next closest \$5.

Notional Fee – is the real fee applying CPI but without the effects of rounding. In some cases, the notional fee is higher than the gazetted fee and therefore is reflected in the percentage movement between the Old and New fees when CPI is applied in the following year(s).

Type of fee	Effective date of last increase	Old fee (\$) (1-Jan-09)	2008/09 Notional Fee (\$)	2009/10 Notional Fee (\$)	New fee (\$) (1-Jan-10)	Increase/Decrease (%)	Accumulated CPI since last increase (%)
Application for a casino key employee licence	1-Jan-09	380.00	379.27	395.20	400.00	5.26	4.20
Application for a casino employee licence	1-Jan-09	240.00	238.40	248.41	250.00	4.17	4.20
Application for renewal of a casino key employee licence	1-Jan-09	105.00	105.26	109.68	110.00	4.76	4.20
Application for renewal of a casino employee licence	1-Jan-09	105.00	105.26	109.68	110.00	4.76	4.20
Application for a casino key employee licence by holder of a casino employee licence	1-Jan-09	275.00	276.33	287.94	290.00	5.45	4.20
Application for a person who resumes employment at the Casino within 4 months of ceasing	1-Jan-09	105.00	105.26	109.68	110.00	4.76	4.20



Government of **Western Australia**
Department of **Racing, Gaming and Liquor**

Our References: F02/21/01-04
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Postal Address: PO Box 6119
EAST PERTH WA 6892

SUBSIDIARY LEGISLATION – EXPLANATORY NOTE

This explanatory memorandum has been prepared as an aid to understanding and must not be substituted for any part of the submission nor made available for public information.

This memo is to be signed and returned to the Department of Racing, Gaming and Liquor for referral to the Joint Standing Committee on Delegated Legislation.

RACING AND WAGERING WESTERN AUSTRALIA AMENDMENT REGULATIONS 2009 – ANNUAL REVIEW OF FEES AND CHARGES

Title of Subsidiary Legislation

Attachment 1 is an extract from the *Government Gazette* in which the *Racing and Wagering Western Australia Amendment Regulations 2009* were published.

Approval Process

The Minister for Racing and Gaming provided certification (attachment 2), dated 21 December 2008, to the Department of Treasury and Finance (DTF) in relation to the review of fees and charges.

Regulation making power

Section 121 of the *Racing and Wagering Western Australia Act 2003* empowers the making of regulations, including the prescribing of fees and charges.

Purposes of the amendments to the subsidiary legislation

In accordance with the provisions of section 53 of the *Financial Management Act 2006* agencies are required to ensure that they operate in a manner that is efficient and economic and achieves the agency's objectives.

In addition, DTF requires, in relation to the review of fees and charges, certification by the Minister.

The objectives of regular reviews are to ensure that government tariffs, fees and charges:

- (a) are reflective of movements in the inflation rate;
- (b) achieve, or are making adequate progress towards achieving, full cost recovery;
- (c) are fair, equitable and recognise household capacity to pay;
- (d) are competitive, in comparison to service providers locally and in other jurisdictions; and
- (e) are comprehensive, such that new tariffs, fees and charges are designed and introduced in a timely manner as considered appropriate by government.

The Minister for Racing and Gaming signed the certification to DTF on 21 December 2008.

For this review, DTF advised that a Consumer Price Index of 4.20 per cent should be applied. The fees and charges prescribed in the *Racing and Wagering Western Australia Act 2003* have been reviewed in accordance with the rate determined by DTF.

In addition, those fees that have not increased in past reviews due to minimal impact of the growth rate have been reassessed by applying accumulated growth. In cases where there has been sufficient accumulated growth to exceed a five dollar increase, or enable rounding to the nearest five dollars, those fees have been increased. However, the CPI rate is always applied to the notional fee and not the rounded up fee.

In accordance with the requirements of Premier's Circular 2007/14 a schedule summarising the changes to the fees is attached (Attachment 3).

Consultation

The Department of Racing, Gaming and Liquor liaised with the Department of Treasury and Finance in relation to the review of the fees and charges.

Relation to Policy


The proposed amendments are consistent with Section 53 of the *Financial Management Act 2006*.

Sensitivity

The amendments are not considered to be sensitive or to include any unusual or controversial provisions.

National Competition Policy

The proposed amendments are not contrary to the principles of National Competition Policy.


Barry A Sargeant
DIRECTOR GENERAL

6 October 2009

[Enc].

Noted.



9 / 10 / 2009

Hon TERRY WALDRON MLA
MINISTER FOR RACING AND GAMING



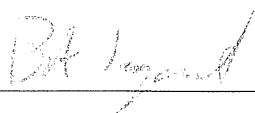
Government of Western Australia
Department of Racing, Gaming and Liquor

CERTIFICATION TO THE DEPARTMENT OF TREASURY AND FINANCE
IN RESPECT OF TARIFFS, FEES AND CHARGES

DEPARTMENT OF RACING, GAMING & LIQUOR


Except as indicated herewith, I declare that:

- I have reviewed all tariffs, fees and charges levied by this agency;
- No fees form part of the "household model";
- The methodology for costing of individual services (and setting of fees) is materially accurate;
- There are no cases of fees where the revenue projections for that service indicate that greater than 100% cost recovery will be achieved;
- There are no issues that are otherwise contentious or high profile; and
- No new fees are proposed.



Director General

Date 12 / December / 2008



Minister

Date 21 / 12 / 2008

	Last Increase	Gazetted Fee	2008/09 Notional Fee	% Increase	\$ Increase	2009/10 Notional Fee	Projected Fee 1/01/2010	Actual % Increase	Accumulative CPI since Last Increase	Justify Y / N
Casino Control Act 1984										
1. Application for a casino key employee licence*	1/01/2009	380.00	379.27	4.20%	15.93	395.20	400.00	5.26%	4.20%	Y
2. Application for a casino employee licence	1/01/2009	240.00	238.40	4.20%	10.01	248.41	250.00	4.17%	4.20%	Y
3. Application for renewal of a casino key employee licence	1/01/2009	105.00	105.26	4.20%	4.42	109.68	110.00	4.76%	4.20%	Y
4. Application for renewal of a casino employee licence	1/01/2009	105.00	105.26	4.20%	4.42	109.68	110.00	4.76%	4.20%	Y
5. Application for a casino key employee licence by holder of a casino employee licence*	1/01/2009	275.00	276.33	4.20%	11.61	287.94	290.00	5.45%	4.20%	Y
6. Application for a person who resumes employment at the Casino within 4 months of ceasing	1/01/2009	105.00	105.26	4.20%	4.42	109.68	110.00	4.76%	4.20%	Y
7. Fee for a casino key employee licence or a casino employee licence required under regulation 4(4) to permit his or her fingerprints or palm prints to be taken/recorded	1/01/2008	45.00	44.32	4.20%	1.86	46.18	45.00	0.00%		Y
<i>[Fees 1 to 7 above are set in the Casino Control (Burswood Island) Regulations 1985]</i>										
8. Fee for review of direction not to enter or remain in the casino	1/01/2008	125.00	127.31	4.20%	5.35	132.66	135.00	8.00%	7.60%	Y
9. Casino Gaming Licence Fee	1/01/2009	Calculated on the Sept CPI formula to commence 1 Jan								
Racing and Wagering Western Australia Act 2003										
1. Application for a RWWA key employee licence	1/01/2009	380.00	379.27	4.20%	15.93	395.20	400.00	5.26%	4.20%	Y
2. Application for a RWWA director's licence	1/01/2009	380.00	379.27	4.20%	15.93	395.20	400.00	5.26%	4.20%	Y
3. Application for renewal of a RWWA key employee licence	1/01/2009	105.00	105.26	4.20%	4.42	109.68	110.00	4.76%	4.20%	Y
4. Application for a renewal of a RWWA director's employee licence	1/01/2009	105.00	105.26	4.20%	4.42	109.68	110.00	4.76%	4.20%	Y
5. RWWA Annual Fee	1/07/2008	Annual fee determined by the Commission to meet costs of the Commission in regulating RWWA.								
Betting Control Act 1954										
1. Grant of a permit under section 4A for a designated sporting event	1/01/2008	40.00	40.58	4.20%	1.70	42.28	40.00	0.00%		Y
2. On the endorsement of a permit authorising the holder to carry on business by means of an on-course telephone betting	1/01/2008	60.00	61.15	4.20%	2.57	63.72	65.00	8.33%	7.60%	Y
3. On the endorsement of a permit authorising the holder to carry on business by means of an on-course internet betting	1/01/2009	300.00	298.00	4.20%	12.52	310.52	310.00	3.33%	4.20%	Y

Racing and Wagering Western Australia Amendment Regulations 2009

Old Fee – this relates to the fee published in the Government Gazette that came into operation on 1 January 2009.

New Fee – this is the fee to apply from 1 January 2010 and is derived from applying CPI to the 2008/09 notional fee and then rounded up (where applicable) to the next closest \$5.

Notional Fee – is the real fee applying CPI but without the effects of rounding. In some cases, the notional fee is higher than the gazetted fee and therefore is reflected in the percentage movement between the Old and New fees when CPI is applied in the following year(s).

Type of fee	Effective date of last increase	Old Fee (\$) (1-Jan-09)	2008/09 Notional Fee (\$)	2009/10 Notional Fee (\$)	New Fee (\$) (1-Jan-10)	Increase/Decrease (%)	Accumulated CPI since last increase (%)
Application fee for a RWWA key employee licence	1-Jan-09	380.00	379.27	395.20	400.00	5.26	4.20
Application fee for a RWWA director's licence	1-Jan-09	380.00	379.27	395.20	400.00	5.26	4.20
Application fee for a renewal of a RWWA key employee licence	1-Jan-09	105.00	105.26	109.68	110.00	4.76	4.20
Application fee for a renewal of a RWWA director's licence	1-Jan-09	105.00	105.26	109.68	110.00	4.76	4.20



Government of **Western Australia**
Department of **Racing, Gaming and Liquor**

Our References: F02/21/01-04
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EAST PERTH WA 6892

SUBSIDIARY LEGISLATION – EXPLANATORY NOTE

This explanatory memorandum has been prepared as an aid to understanding and must not be substituted for any part of the submission nor made available for public information.

This memo is to be signed and returned to the Department of Racing, Gaming and Liquor for referral to the Joint Standing Committee on Delegated Legislation.

GAMING AND WAGERING COMMISSION AMENDMENT REGULATIONS 2009 – ANNUAL REVIEW OF FEES AND CHARGES

Title of Subsidiary Legislation

Attachment 1 is an extract from the *Government Gazette* in which the *Gaming and Wagering Commission Amendment Regulations 2009* were published.

Approval Process

The Minister for Racing and Gaming provided certification (attachment 2), dated 21 December 2008, to the Department of Treasury and Finance (DTF) in relation to the review of fees and charges.

Regulation making power

Section 117 of the *Gaming and Wagering Commission Act 1987* empowers the making of regulations, including the prescribing of fees and charges.

Purposes of the amendments to the subsidiary legislation

In accordance with the provision of section 53 of the *Financial Management Act 2006* agencies are required to ensure that they operate in a manner that is efficient and economic and achieves the agency's objectives.

In addition, DTF requires, in relation to the review of fees and charges, certification by the Minister.

The objectives of regular reviews are to ensure that government tariffs, fees and charges:

- (a) are reflective of movements in the inflation rate;
- (b) achieve, or are making adequate progress towards achieving, full cost recovery;
- (c) are fair, equitable and recognise household capacity to pay;
- (d) are competitive, in comparison to service providers locally and in other jurisdictions; and
- (e) are comprehensive, such that new tariffs, fees and charges are designed and introduced in a timely manner as considered appropriate by government.

The Minister for Racing and Gaming signed the certification to DTF on 21 December 2008.

For this review, DTF advised that a Consumer Price Index of 4.20 per cent should be applied. The fees and charges prescribed in the *Gaming and Wagering Commission Act 1987* have been reviewed in accordance with the rate determined by DTF.

In addition, those fees that have not increased in past reviews due to minimal impact of the growth rate have been reassessed by applying accumulated growth. In cases where there has been sufficient accumulated growth to exceed a five dollar increase, or enable rounding to the nearest five dollars, those fees have been increased. However, the CPI rate is always applied to the notional fee and not the rounded up fee.

In accordance with the requirements of Premier's Circular 2007/14 a schedule summarising the changes to the fees is attached (attachment 3).

Consultation

The Department of Racing, Gaming and Liquor liaised with the Department of Treasury and Finance in relation to the review of the fees and charges.

Relation to Policy


The proposed amendments are consistent with Section 53 of the *Financial Management Act 2006*

Sensitivity

The amendments are not considered to be sensitive or to include any unusual or controversial provisions.

National Competition Policy

The proposed amendments are not contrary to the principles of National Competition Policy.


Barry A Sargeant
DIRECTOR GENERAL

6 October 2009

[Enc].

Noted.



9 / 10 / 2009

Hon TERRY WALDRON MLA
MINISTER FOR RACING AND GAMING



Government of Western Australia
Department of Racing, Gaming and Liquor

CERTIFICATION TO THE DEPARTMENT OF TREASURY AND FINANCE
IN RESPECT OF TARIFFS, FEES AND CHARGES

DEPARTMENT OF RACING, GAMING & LIQUOR

Except as indicated herewith, I declare that:

- I have reviewed all tariffs, fees and charges levied by this agency;
- No fees form part of the "household model";
- The methodology for costing of individual services (and setting of fees) is materially accurate;
- There are no cases of fees where the revenue projections for that service indicate that greater than 100% cost recovery will be achieved;
- There are no issues that are otherwise contentious or high profile; and
- No new fees are proposed.

Director General

Date 12 / December / 2008

Minister

Date 21 / 12 / 2008

Attachment B

Gaming and Wagering Commission		Last Increase	Gazetted Fee 1/01/2009	2008/09 Notional Fee	4.20% Increase	\$ Increase	2009/10 Notional Fee	Projected Fee 1/01/2010	Actual % Increase	Accumulative CPI since Last Increase	Justify Y / N
<u>Gaming and Wagering Commission Act 1987</u>											
1. (a) Search of register for an identified entry		1/01/2008	7.00	7.34	4.20%	0.31	7.65	7.50	7.14%	7.60%	Y
(b) Copy of extract from register		1/01/2008	13.00	13.77	4.20%	0.58	14.35	14.00	7.69%	7.60%	Y
2. Application for a function permit for -											
(a) an item of gaming equipment [reg 18B(2)(a)]		1/01/2008	30.00	29.84	4.20%	1.25	31.09	30.00	0.00%		Y
(b) a class of gaming equipment [reg 18B(2)(b)]		1/01/2009	55.00	53.70	4.20%	2.26	55.96	55.00	0.00%		Y
3. Application for permit of a continuing nature for -											
(a) a video lottery terminal [reg 18AA(7)]		1/01/2008	30.00	29.84	4.20%	1.25	31.09	30.00	0.00%		Y
(b) an item of gaming equipment [reg 18B(2)(a)]		1/01/2009	55.00	53.70	4.20%	2.26	55.96	55.00	0.00%		Y
(c) a class of gaming equipment [reg 18B(2)(b)]		1/01/2009	100.00	101.45	4.20%	4.26	105.71	105.00	5.00%	4.20%	Y
4. Application for a function permit for -											
(a) bingo		1/01/2009	20.00	17.90	4.20%	0.75	18.65	20.00	0.00%		Y
(b) multiple bingo, for each premises		1/01/2009	20.00	17.90	4.20%	0.75	18.65	20.00	0.00%		Y
(c) simultaneous bingo, for each premises		1/01/2009	20.00	17.90	4.20%	0.75	18.65	20.00	0.00%		Y
(d) a standard lottery -											
(i) where total retail value of prizes or prize money does not exceed \$5,000		1/01/2009	30.00	29.84	4.20%	1.25	31.09	30.00	0.00%		Y
(ii) otherwise		1/01/2009	65.00	65.64	4.20%	2.76	68.40	70.00	7.69%	4.20%	Y
(da) a standard lottery described as a calcutta		1/01/2009	65.00	65.64	4.20%	2.76	68.40	70.00	7.69%	4.20%	Y
(e) a continuing lottery		1/01/2009	15.00	12.52	4.20%	0.53	13.05	15.00	0.00%		Y
(f) gaming (per day authorized) -											
(i) 1-5 tables		1/01/2008	180.00	185.53	4.20%	7.79	193.32	195.00	8.33%	7.60%	Y
(ii) 6-10 tables		1/01/2009	305.00	308.84	4.20%	12.97	321.81	320.00	4.92%	4.20%	Y
(iii) over 10 tables		1/01/2009	375.00	373.85	4.20%	15.70	389.55	390.00	4.00%	4.20%	Y
(g) 2 - up -											
(i) by a country race club		1/01/2009	125.00	127.55	4.20%	5.36	132.91	135.00	8.00%	4.20%	Y
(ii) otherwise		1/01/2009	185.00	185.53	4.20%	7.79	193.32	195.00	5.41%	4.20%	Y
5. Application for permit of a continuing nature for -											
(a) bingo		1/01/2008	30.00	29.84	4.20%	1.25	31.09	30.00	0.00%		Y
(b) multiple bingo, for each premises		1/01/2008	30.00	29.84	4.20%	1.25	31.09	30.00	0.00%		Y
(c) simultaneous bingo, for each premises		1/01/2008	30.00	29.84	4.20%	1.25	31.09	30.00	0.00%		Y

Gaming and Wagering Commission	Last Increase	Gazetted Fee 1/01/2009	2008/09 Notional Fee	4.20% Increase	\$ Increase	2009/10 Notional Fee	Projected Fee 1/01/2010	Actual % Increase	Accumulative CPI since Last Increase	Justify Y / N
(d) a standard lottery, where total retail value of prizes or prize money is -										
(i) not more than \$5,000	1/01/2008	40.00	41.77	4.20%	1.75	43.52	45.00	12.50%	7.60%	Y
(ii) more than \$5,000 but not more than \$50,000	1/01/2008	95.00	97.53	4.20%	4.10	101.63	100.00	5.26%	7.60%	Y
(iii) more than \$50,000 - not more than \$100,000	1/01/2009	185.00	184.22	4.20%	7.74	191.96	190.00	2.70%	4.20%	Y
(iv) more than \$100,000 - not more than \$200,000	1/01/2009	370.00	373.85	4.20%	15.70	389.55	390.00	5.41%	4.20%	Y
(v) more than \$200,000	1/01/2009	620.00	623.09	4.20%	26.17	649.26	650.00	4.84%	4.20%	Y
(da) a standard lottery described as a calcutta	1/01/2009	130.00	127.55	4.20%	5.36	132.91	135.00	3.85%	4.20%	Y
(e) a continuing lottery	1/01/2008	25.00	25.30	4.20%	1.06	26.36	25.00	0.00%	4.20%	Y
(f) gaming (per day authorized) -										
(i) 1-5 tables	1/01/2009	150.00	151.71	4.20%	6.37	158.08	160.00	6.67%	4.20%	Y
(ii) 6-10 tables	1/01/2009	275.00	276.33	4.20%	11.61	287.94	290.00	5.45%	4.20%	Y
(iii) over 10 tables	1/01/2009	340.00	341.34	4.20%	14.34	355.68	355.00	4.41%	4.20%	Y
(g) 2 - up -										
(i) by a country race club, per day authorized	1/01/2008	100.00	101.92	4.20%	4.28	106.20	105.00	5.00%	7.60%	Y
(ii) otherwise, per day authorized	1/01/2009	150.00	151.72	4.20%	6.37	158.09	160.00	6.67%	4.20%	Y
3. Application for approval of premises -										
(a) for a specific function	1/01/2009	20.00	17.90	4.20%	0.75	18.65	20.00	0.00%		Y
(b) for functions from time to time	1/01/2008	65.00	65.65	4.20%	2.76	68.41	70.00	7.69%	7.60%	Y
(c) for permit of a continuing nature	1/01/2008	65.00	65.65	4.20%	2.76	68.41	70.00	7.69%	7.60%	Y
7. On the issue of a certificate relating to -										
(a) multiple bingo	1/01/2009	130.00	127.55	4.20%	5.36	132.91	135.00	3.85%	4.20%	Y
(b) simultaneous bingo	1/01/2009	130.00	127.55	4.20%	5.36	132.91	135.00	3.85%	4.20%	Y
(c) assisting in the conduct of bingo, for hire or reward										
8. Fee for an approved operator's certificate	1/01/2009	130.00	127.55	4.20%	5.36	132.91	135.00	3.85%	4.20%	Y
9. Fee on the issue of a certificate [s88(5)]	1/01/2009	205.00	204.98	4.20%	8.61	213.59	215.00	4.88%	4.20%	Y
10. Fee on application to be a licensed supplier under section 104B	1/01/2009	270.00	270.91	4.20%	11.38	282.29	280.00	3.70%	4.20%	Y
11. Fee on application to be a licensed operator/remover of money from gaming equipment under S88	1/01/2005	20.00	22.16	4.20%	0.93	23.09	25.00	25.00%	16.85%	Y

Attachment 3**Gaming and Wagering Commission Amendment Regulations (No. 4) 2009**

Old Fee – this relates to the fee published in the Government Gazette that came into operation on 1 January 2009.

New Fee – this is the fee to apply from 1 January 2010 and is derived from applying CPI to the 2008/09 notional fee and then rounded up (where applicable) to the next closest \$5.

Notional Fee – is the real fee applying CPI but without the effects of rounding. In some cases, the notional fee is higher than the gazetted fee and therefore is reflected in the percentage movement between the Old and New fees when CPI is applied in the following year(s).

Type of fee	Effective date of last increase	Old fee (\$) (1-Jan-09)	2008/09 Notional Fee (\$)	2009/10 Notional Fee (\$)	New fee (\$) (1-Jan-10)	Increase/Decrease (%)	Accumulated CPI since last increase (%)
Search of register for an identified entry	1-Jan-08	7.00	7.34	7.65	7.50	7.14	7.60
Copy of extract from register	1-Jan-08	13.00	13.77	14.35	14.00	7.69	7.60
Fee on application for a permit of a continuing nature for (c) a class of gaming equipment	1-Jan-09	100.00	101.45	105.71	105.00	5.00	4.20
Fee on application for a function permit for - (d) a standard lottery - (ii) otherwise	1-Jan-09	65.00	65.64	68.40	70.00	7.69	4.20
(da) a standard lottery described as a calcutta	1-Jan-09	65.00	65.64	68.40	70.00	7.69	4.20

(f) gaming (per day authorized)								
(i) 1-5 tables	1-Jan-08	180.00	185.53	193.32	195.00	8.33	7.60	
(ii) 6-10 tables	1-Jan-09	305.00	308.84	321.81	320.00	4.92	4.20	
(iii) over 10 tables	1-Jan-09	375.00	373.85	389.55	390.00	4.00	4.20	
(g) two-up								
(i) by a country race club	1-Jan-09	125.00	127.55	132.91	135.00	8.00	4.20	
(ii) otherwise	1-Jan-09	185.00	185.53	193.32	195.00	5.41	4.20	
Fee on application for a permit of a continuing nature for -								
(d) a standard lottery, where the total retail value of prizes of prize money is -								
(i) not more than \$5000	1-Jan-08	40.00	41.77	43.52	45.00	12.50	7.60	
(ii) more than \$5000 but not more than \$50,000	1-Jan-08	95.00	97.53	101.63	100.00	5.26	7.60	
(iii) more than \$50,000 but not more than \$100,000	1-Jan-09	185.00	184.22	191.96	190.00	2.70	4.20	
(iv) more than \$100,000 but not more than \$200,000	1-Jan-09	370.00	373.85	389.55	390.00	5.41	4.20	
(v) more than \$200,000	1-Jan-09	620.00	623.09	649.26	650.00	4.84	4.20	

(da) a standard lottery of a kind generally known or described as a calcutta	1-Jan-09	130.00	127.55	132.91	135.00	3.85	4.20
(f) gaming (per day authorised) -							
(i) 1-5 tables	1-Jan-09	150.00	151.71	158.08	160.00	6.67	4.20
(ii) 6-10 tables	1-Jan-09	275.00	276.33	287.94	290.00	5.45	4.20
(iii) over 10 tables	1-Jan-09	340.00	341.34	355.68	355.00	4.41	4.20
(g) two-up -							
(i) by a country race club, per day authorized	1-Jan-08	100.00	101.92	106.20	105.00	5.00	7.60
(ii) otherwise, per day authorised	1-Jan-09	150.00	151.72	158.09	160.00	6.67	4.20
Fee on application for approval of premises -							
(b) for functions from time to time	1-Jan-08	65.00	65.65	68.41	70.00	7.69	7.60
(c) for permit of a continuing nature	1-Jan-08	65.00	65.65	68.41	70.00	7.69	7.60
Fee on the issue of a certificate relating to -							
(a) multiple bingo	1-Jan-09	130.00	127.55	132.91	135.00	3.85	4.20
(b) simultaneous bingo	1-Jan-09	130.00	127.55	132.91	135.00	3.85	4.20
(c) assisting in the conduct of bingo, for hire or reward	1-Jan-09	130.00	127.55	132.91	135.00	3.85	4.20

Fee for an approved operator's certificate	1-Jan-09	205.00	204.98	213.59	215.00	4.88	4.20
Fee on the issue of a certificate	1-Jan-09	270.00	270.91	282.29	280.00	3.70	4.20
Fee on application to be a licensed supplier	1-Jan-09	250.00	249.24	259.71	260.00	4.00	4.20
Fee on application to be a licensed operator/remover of money from gaming equipment under S88	1-Jan-05	20.00	22.16	23.09	25.00	25.00	16.85



Government of **Western Australia**
Department of **Racing, Gaming and Liquor**

Our References: F02/21/01-04
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SUBSIDIARY LEGISLATION – EXPLANATORY NOTE

This explanatory memorandum has been prepared as an aid to understanding and must not be substituted for any part of the submission nor made available for public information.

This memo is to be signed and returned to the Department of Racing, Gaming and Liquor for referral to the Joint Standing Committee on Delegated Legislation.

LIQUOR CONTROL AMENDMENT REGULATIONS (No.7) 2009 – ANNUAL REVIEW OF FEES AND CHARGES

Title of Subsidiary Legislation

Attachment 1 is an extract from the *Government Gazette* in which the *Liquor Control Amendment Regulations (No. 7) 2009* were published.

Approval Process

The Minister for Racing and Gaming provided certification, dated 21 December 2008, to the Department of Treasury and Finance (DTF) in relation to the review of fees and charges.

Subsequent to the approval, the Minister approved on 5 October 2009, a new fee structure for fees under the Liquor Control Act 1988 to accommodate full cost recovery.

Regulation making power

Section 175 (1)(a) and (b) of the *Liquor Control Act* 1988 empowers the making of regulations, including the prescribing of fees and charges.

Purposes of the amendments to the subsidiary legislation

In accordance with the provisions of section 53 of the *Financial Management Act 2006* agencies are required to ensure that they operate in a manner that is efficient and economic and achieves the agency's objectives.

The objectives of regular reviews are to ensure that government tariffs, fees and charges:

- (a) are reflective of movements in the inflation rate;
- (b) achieve, or are making adequate progress towards achieving, full cost recovery;
- (c) are fair, equitable and recognise household capacity to pay;
- (d) are competitive, in comparison to service providers locally and in other jurisdictions; and
- (e) are comprehensive, such that new tariffs, fees and charges are designed and introduced in a timely manner as considered appropriate by government.

A number of the fees under the Liquor Control Act are to be increased to accommodate the full cost recovery model for the external integrity check service provided by the Western Australian Police Service.

In addition, the liquor fees should increase to the extent that they offset the Consolidated Fund support of the Department of Racing, Gaming and Liquor (presently \$3.8 million). Consequently, a number of fees have been increased beyond CPI to achieve this.

However, a number of fees have been increased solely in accordance with the movement in the Consumer Price Index of 4.20 percent. In this respect, those fees that have not increased in past reviews due to minimal impact of the growth rate have been reassessed by applying accumulated growth.

In cases where there has been sufficient accumulated growth to exceed a five dollar increase, or enable rounding to the nearest five dollars, those fees have been increased. However, the CPI rate is always applied to the notional fee and not the rounded up fee.

In accordance with the requirements of Premier's Circular 2007/14 a schedule summarising the changes to the fees is attached (Attachment 2).

Consultation

The Department of Racing, Gaming and Liquor liaised with the Department of Treasury and Finance in relation to the review of the fees and charges. Consultation in relation to the principle of full cost recovery for liquor licensing services provided by the Department of Racing, Gaming and Liquor occurred with the Australian Hotels Association (WA Branch) and the Licensed Stores Association in mid 1999 and was generally accepted.

Relation to Policy

The proposed amendments are consistent with Section 53 of the *Financial Management Act 2006*.

Sensitivity

The amendments are not considered to be sensitive or to include any unusual or controversial provisions

National Competition Policy

The proposed amendments are not contrary to the principles of National Competition Policy.


Barry A Sargeant
DIRECTOR GENERAL

4 November 2009

Noted.



8 / 11 / 2009

Hon Terry Waldron MLA
MINISTER FOR RACING AND GAMING

Liquor Control Act 1988 Fees and Charges 2009 & 2010**KEY**

Changes increased by CPI

Changes increased by cost recovery

ITEM	DESCRIPTION	<u>CURRENT FEE</u>		<u>NEW FEE</u>	
		FEE	ELECTRONIC FEE	FEE	ELECTRONIC FEE (Representing a 10% discount of the principal fee rounded to the nearest \$5 -\$10)
1.	Application for grant or removal of a hotel, hotel restricted, tavern, small bar, nightclub, casino, special facility or liquor store licence	2200.00	2000.00	2750.00	2475.00
2.	Application for grant or removal of a club, club restricted, restaurant, producer's or wholesaler's licence	500.00	460.00	750.00	675.00
3.	Application for transfer of a licence	500.00		750.00	
4.	Annual licence fee for all licences other than a club restricted licence	155.00		500.00	
6.	Annual licence fee for club restricted licence	155.00		250.00	
7.	Annual licence fee for a wholesalers licence	330.00		500.00	
8.	Penalty for late payment of annual licence fee	155.00		50% of total fee	
9.	Regulation 26(1)(a) – 2 or less ETP'S	105.00		200.00	
10.	Regulation 26(1)(b) – 3 or more ETP'S	205.00		400.00	
11.	Application fee for an occasional licence where the anticipated number of persons attending* is –				

	(a) up to 250 persons	35.00		50.00	
	(b) between 251 and 500 persons	80.00		100.00	
	(c) between 501 and 1,000 persons	145.00		200.00	
	(d) between 1,001 and 5,000 persons	610.00		1000.00	
	(e) between 5,001 and 10,000 persons	1250.00		2000.00	
	(f) over 10,000 persons	2500.00		4000.00	
12.	Application for ETP for period over 21 days:				
	(a) issued for purpose under s.60(4)(ca)	370.00	340.00	400.00	360.00
	(b) issued for purpose under s.60(4)(h)	245.00	230.00	300.00	270.00
	(c) issued for any other purpose	670.00	620.00	1000.00	900.00
13.	Application fee for ETPs (other than for extended hours immediately after 10.00pm on a Sunday or from immediately after midnight on a Saturday) for 21 days or less	65.00		100.00 (for each day, up to a maximum of \$1000)	
14.	Application fee for ETPs for extended hours after 10.00pm on a Sunday or from immediately after midnight on a Sunday			200.00	
15.	Application for approval of manager after licence granted (other than club or club restricted licence)	80.00		140.00	
16.	Application for approval of manager after licence granted (under club licence)	85.00		90.00	
17.	Application for approval of manager after licence granted (under club restricted licence)	25.00		30.00	
18.	Application for approval of person in position of authority (other than club or club restricted licence)	90.00		140.00	

19.	Application for approval of person in position of authority (for a club or club restricted licence)	90.00		95.00	
20.	Application for approval for alteration/redefinition of licensed premises	310.00	285.00	320.00	295.00
21.	Application for protection order under sec 87(1)	80.00		200.00	
22.	Application for duplicate licence	30.00		35.00	
23.	Application for approval of change of name of licensed premises	65.00		70.00	
24.	Application to add, vary or cancel condition of licence or permit (other than club restricted)	80.00	70.00	200.00	180.00
25.	Application to add, vary or cancel condition of licence or permit (other than club restricted) for 21 days or less			100.00	
26.	Application to add, vary or cancel condition of licence or permit of club restricted licence	30.00		40.00	
27.	On the issue of a list of licensed premises or a list of owners of licensed premises	80.00		80.00	
28.	On issue of licensed premises list on computer disk	50.00		50.00	
29.	Address Labels for licensed premises	115.00		120.00	
30.	Application for proof of age card (reg 18B)	25.00		25.00	
31.	Supply of approved heading for advertising an application	25.00		25.00	
32.	Copy of plan – per sheet (up to maximum of \$200)	25.00		25.00	
33.	Certified copy of plan defining licensed premises	35.00		35.00	
34.	Issue of a summons to a witness	20.00		20.00	
35.	Copy of a licence, permit, or a decision of the Commission (or the former Liquor Licensing Court) or the Director	25.00		25.00	

36.	For certification of copy of a licence or permit or decision of Court or Director	25.00		25.00	
37.	For search of records of licences – per licence	35.00		35.00	
38.	For notice of application for approval of arrangement or agreement [section 68(1)(b)(i)]	70.00		200.00	
39.	For copy of documentation, other than that already prescribed, per page	4.50		5.00	
40.	For a search of postcodes				
	(a) 1 to 10 postcodes	35.00		35.00	
	(b) more than 10 postcodes	70.00		75.00	
41.	For a full search of the licence record	45.00		45.00	
42.	Application under section 62(6) of the Act to vary any plans or specifications the subject of a condition	230.00	220.00	240.00	215.00
43.	Application under section 126A for approval of entertainment for juveniles on licensed premises	55.00		60.00	

APPENDIX 3
COMMITTEE LETTER DATED 11 NOVEMBER 2009

APPENDIX 3

COMMITTEE LETTER DATED 11 NOVEMBER 2009



JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION

Your Ref: F02/21/01-04
Our Ref: 3824/17-20

Mr Barry A Sargeant
Director General
Department of Racing, Gaming and Liquor
PO Box 6119
EAST PERTH WA 6892

Attention: Mr Hans Fan Der Linden

By fax: 08 9325 1636

11 November 2009

Dear Sir

Betting Control, Casino Control, Gaming and Wagering - various instruments - Annual Review of Fees and Charges

I refer to the four pieces of subsidiary legislation itemised in the attached schedule which have been recently published in the *Government Gazette* and which increase various fees and charges.

The empowering legislation¹ - at first glance - appears to authorise the imposition of fees for services and licence fees but not taxes. The Explanatory Memoranda to these instruments do not cite a power to impose a tax.

There does not appear to be clear information as to the relationship between the fees imposed and the cost of provision of the particular services in respect of which each fee is imposed. The Explanatory Memoranda all state that the fee increases account for Consumer Price Index (CPI) increases and 'achieve, or are making adequate progress towards achieving, full cost recovery'².

This suggests that the increases are based on a cost recovery justification as well as CPI, but the extent of cost recovery currently achieved under the four instruments is not expressly stated.

¹ Respectively, the *Betting Control Act 1954*, the *Casino Control Act 1984* and the *Gaming and Wagering Commission Act 1987*.

² Various EMs provided with the instruments, page 2.

As the Joint Standing Committee on Delegated Legislation's Report No. 32 makes clear³, absent some specific provision in empowering legislation, the question of authorisation is not answered by advice as to overall cost recovery by a government department or agency; nor does advice as to Department of Treasury and Finance direction to increase a fee by CPI address authorisation. On the information currently provided, the Committee may not be able to form an opinion as to whether the fee increases are authorised.

I advise that provision of the following information in respect of the various instruments would assist the Committee in considering these instruments:

1. whether, prior to any annual CPI increase which may have occurred, the 'base' fees to which CPI has been annually applied were calculated on the basis of the cost to the Department of provision of the particular services or, for a licence fee, the cost of provision of the matters set out in section 45A of the *Interpretation Act 1984* in respect of which the various fees were imposed⁴;
2. if so, the year in which that original 'base' cost was ascertained (noting that some of the fees were only recently introduced and therefore have not been previously increased); and
3. if not, the basis on which the current fees have been calculated.

Please provide the information requested by **5pm on Tuesday 25 November 2009**.

If you have any queries in relation to the above, please telephone the Committee's Advisory Officer (Legal) Ms Irina Lobeto-Ortega on telephone 9222 7302 or via email on ilobeto-ortega@parliament.wa.gov.au.

Yours sincerely



Ms Irina Lobeto-Ortega
Advisory Officer (Legal)

Encl. Schedule of recently gazetted Department of Racing, Gaming and Wagering subsidiary legislation

Note that this document (including any attachments) is privileged. You should only use, disclose or copy the material if you are authorised by the Committee to do so. Please contact Committee staff if you have any queries.

³ Available in electronic form from: <http://www.parliament.wa.gov.au/> under 'Committees'.

⁴ This information may be provided in table format, for example: 'Cost of service', 'Year Fee First Imposed', 'Fee charged', 'Percentage of cost recovery'.

Schedule of recently gazetted Department of Racing, Gaming and Liquor subsidiary legislation

Betting Control Amendment Regulations (No. 4) 2009

Casino Control Amendment Regulations 2009

Casino Control (Burswood Island) (Licensing of Employees) Amendment Regulations (No. 2) 2009

Gaming and Wagering Commission Amendment Regulations 2009

APPENDIX 4
DEPARTMENT OF RACING, GAMING AND LIQUOR
LETTER DATED 24 NOVEMBER 2009

APPENDIX 4

DEPARTMENT OF RACING, GAMING AND LIQUOR LETTER

DATED 24 NOVEMBER 2009



Government of **Western Australia**
Department of **Racing, Gaming and Liquor**

Your Ref : 3824/17-20

Our Ref : F02/21/01

Enquiries: Mark Beecroft
☎ (08) 9425 1881
mark.beecroft@rgl.wa.gov.au

Ms Irina Lobeto-Ortega
Advisory Officer (Legal)
Joint Standing Committee on Delegated Legislation
Legislative Council
Parliament House
PERTH WA 6000



Dear Ms Lobeto-Ortega

BETTING CONTROL, CASINO CONTROL, GAMING AND WAGERING - VARIOUS INSTRUMENTS - ANNUAL REVIEW OF FEES AND CHARGES

I refer to your letter of 11 November 2009 seeking further information in relation to the Department's annual review of fees and charges.

While fees are essentially increased in line with CPI movement, there are occasions where an annual review may increase some fees beyond CPI, however, in these incidences the fees increased are only to the extent that they offset the Consolidated Fund support of the Department of Racing, Gaming and Liquor (presently \$3.8 million) and do not reflect full cost recovery for the provision of the service. On this occasion, however, the instruments under consideration by the Committee have only had CPI applied for the current review.

All fees contained in the instruments, with the exception of the casino employee renewals fees, are based on the original fees established at the time of the relevant instrument coming into operation. In this regard, it is difficult to establish (in most instances), the original fee due to the date the legislation came into operation and the relevant records being stored off-site. Nevertheless, in respect to each instrument the following information is provided:

Betting Control Amendment Regulations (No 4) 2009

All fees contained in the instrument are the result of applying CPI to the original fees.

The *Betting Control Regulations 1978* commenced operation on 22nd June 1978 containing a number of fees. Over time subsequent fees have been introduced at various intervals to cater for new initiatives, for example, fees associated with the introduction of telephone and internet betting. All fees (including those associated with new initiatives) are not structured on a model of cost recovery.

Level 1, 87 Adelaide Terrace, East Perth, Western Australia, 6004
Postal Address: PO Box 6119, East Perth, Western Australia, 6892
Tel: (08) 9425 1888 Facsimile: (08) 9325 1636 Country Callers: 1800 634 541
Email: rgl@rgl.wa.gov.au Web Site: www.rgl.wa.gov.au

2 of 2

Casino Control Amendment Regulations 2009

Only CPI increases have been applied to the fee contained in the instrument. This fee was established at \$100 with the implementation of the *Casino Control Regulations 1999* on 5th February 1999.

The fee is not structured on cost recovery.

Casino Control (Burswood Island) (Licensing of Employees) Amendment Regulations (No 2) 2009

With the exception of the renewal fee for casino employee and key employee licences, all other fees contained in the instrument were initially established as base fees when the *Casino Control (Burswood Island) (Licensing of Employees) Regulations 1985* came into operation on 16th August 1985. Since, only CPI has been applied over subsequent reviews.

In regard to the renewal fee for casino employee and key employee licences, these fees came into operation on 2nd July 1999 and were structured on 100 per cent full cost recovery; that is, \$75. Since the introduction of these fees only CPI has been applied over subsequent reviews.

Gaming and Wagering Commission Amendment Regulations 2009

All fees contained in the instrument were initially established as base fees when the *Gaming and Wagering Commission Regulations 1989* came into operation on 2nd May 1988. Since, only CPI has been applied over subsequent reviews.

The fees are not structured on cost recovery.

Should you require any further information please contact Mark Beecroft, Principal Policy Officer on 9425 1881.

Yours sincerely



Barry A Sargeant
DIRECTOR GENERAL

24 November 2009

APPENDIX 5
COMMITTEE LETTER DATED 2 DECEMBER 2009

APPENDIX 5

COMMITTEE LETTER DATED 2 DECEMBER 2009



JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION

Your Ref: 3824/17-20

Our Ref: F02/21/01

Mr Barry A Sargeant
Director General
Department of Racing, Gaming and Liquor
PO Box 6119
EAST PERTH WA 6892

Attention: Mr Mark Beecroft

By fax: 08 9325 1636

2 December 2009

Dear Sir

Betting Control, Casino Control, Gaming and Wagering - various instruments - Annual Review of Fees and Charges

I refer to your letter of 24 November 2009 providing further information regarding the background to the Department's fees and charges which are currently before the Committee.

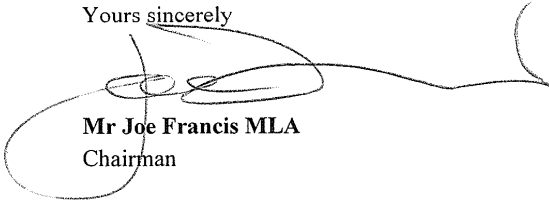
For each fee that is being increased, please now provide the following additional information in table format:

- a breakdown of costs per unit of fee if one is available;
- a comparison between the cost of the service and the fee charged;
- the level of cost recovery for the service; and
- whether any cross subsidisation is occurring.

Please provide this information by **5pm on Wednesday 27 January 2010**.

If you have any queries, please contact the Committee's Advisory Officer (Legal), Ms Irina Lobeto-Ortega on 9222 7302 or via email on ilobeto-ortega@parliament.wa.gov.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Joe Francis', with a large, sweeping flourish extending to the right.

Mr Joe Francis MLA
Chairman

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APPENDIX 6
COMMITTEE LETTER DATED 8 DECEMBER 2009

APPENDIX 6

COMMITTEE LETTER DATED 8 DECEMBER 2009



JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION

Your Ref: F02/21/01-04
Our Ref: 3825/3 & 4

Mr Barry Sargeant
Director General
Department of Racing, Gaming and Liquor
PO Box 6119
EAST PERTH WA 6892

8 December 2009

Attention: Mr Hans Fan Der Linden

By Fax: 9325 1636

Dear Sir

Racing Penalties (Appeals) Amendment Regulations 2009
Racing and Wagering Western Australia Amendment Regulations 2009

I refer to the above pieces of subsidiary legislation and to supporting information provided by the Department of Racing, Gaming and Liquor to the Committee in November 2009.

The Committee requires further information to properly consider these instruments. For each fee that is being increased, please provide the following information in a table format:

- a breakdown of costs per unit of fee if one is available;
- a comparison between the cost of the service and the fee charged;
- the level of cost recovery for the service; and
- whether any cross subsidisation is occurring.

Please provide the information requested by **5pm on Tuesday, 22 December 2009**.

If you have any queries, please telephone either of the Committee's Advisory Officer (Legal) Mrs Felicity Mackie on 9222 7406 or Ms Irina Lobeto-Ortega on 9222 7302.

Yours sincerely

Ms Felicity Mackie
Advisory Officer (Legal)

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APPENDIX 7
COMMITTEE LETTER DATED 16 DECEMBER 2009

APPENDIX 7

COMMITTEE LETTER DATED 16 DECEMBER 2009



JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION

Your Ref: L45/11/34-02
Our Ref: 3826/12

Mr Barry Sargeant
Director General
Department of Racing, Gaming and Liquor
PO Box 6119
EAST PERTH WA 6892
16 December 2009

Attention: Mr Hans Fan Der Linden

By Fax: 9325 1636

Dear Sir

Liquor Control Amendment Regulations (No.7) 2009

I refer to the above piece of subsidiary legislation and to the supporting material provided to the Committee in December 2009.

I note that, contrary to Premier's Circular 2007/14, the fee table provided with the Explanatory Memorandum does not include the date each fee was last updated or the per cent figure by which each fee is being increased or decreased. Please provide this information to assist the Committee in considering these instruments.

Could you please also provide the following information to assist the Committee, in table format if possible:

- a breakdown of costs per unit of fee if one is available;
- a comparison between the cost of the service and the fee charged;
- the level of cost recovery for the service; and
- whether any cross subsidisation is occurring.

Please provide the information requested by **5pm on Friday, 22 January 2010**. If you have any queries, please telephone the Committee's Advisory Officer Ms Irina Lobeto-Ortega on 9222 7302.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'F. Mackie'.

Mrs Felicity Mackie
Advisory Officer (Legal)

Note that this document (including any attachments) is privileged. You should only use, disclose or copy the material if you are authorised by the Committee to do so. Please contact Committee staff if you have any queries.

APPENDIX 8
DEPARTMENT OF RACING, GAMING AND LIQUOR
LETTER DATED 30 DECEMBER 2009

APPENDIX 8

DEPARTMENT OF RACING, GAMING AND LIQUOR LETTER

DATED 30 DECEMBER 2009



Government of **Western Australia**
Department of **Racing, Gaming and Liquor**

Your Ref : 3824/17-20
Our Ref : F02/21/01-05
Enquiries: Hans Fan Der Linden
☎ (08) 9425 1882
Hans.Fanderlinden@rgl.wa.gov.au

Ms Irina Lobeto-Ortega
Advisory Officer (Legal)
Joint Standing Committee on Delegated Legislation
Legislative Council
Parliament House
PERTH WA 6000

Dear Ms Lobeto-Ortega

BETTING CONTROL, LIQUOR CONTROL, CASINO CONTROL, GAMING AND WAGERING, RACING AND WAGERING WESTERN AUSTRALIA, RACING PENALTIES (APPEALS) - VARIOUS INSTRUMENTS - ANNUAL REVIEW OF FEES AND CHARGES

I refer to your correspondence dated 2, 8, 10 and 18 December 2009 seeking further information in relation to the Department of Racing Gaming and Liquor's annual review of fees and charges for the:

- *Betting Control Amendment Regulations 2009;*
- *Liquor Control Amendment Regulations 2009;*
- *Gaming and Wagering Commission Amendment Regulations 2009;*
- *Casino Control Amendment Regulations 2009;*
- *Casino Control (Burswood Island) (Licensing of Employees) Amendment Regulations 2009;*
- *Racing and Wagering Western Australia Amendment Regulations 2009;*
and
- *Racing Penalties (Appeals) Amendment Regulations 2009.*

The Department currently does not have the resources to undertake a full scale assessment on individual components making up the fees and charges for the above mentioned instruments; that is, comparing the costs for providing the service against the relevant fee charged.

I advise that while the Department continues to receive an appropriation from the consolidated fund (currently \$3.8 million), the majority of fees charged under the various instruments are below cost recovery.

Notwithstanding this, the Department will offset the full costs incurred for the external integrity check service provided by the WA Police.


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Email: rgl@rgl.wa.gov.au Web Site: www.rgl.wa.gov.au

In respect of your letter dated 18 December 2009 requesting further information relating to the *Liquor Control Amendment Regulations (No.7) 2009*, I have amended the fee table (attached) to include:

- a) the date each fee was last updated; and
- b) the percent figure by which each fee is being increased or decreased.

Should you require any further information please contact Mr Hans Fan Der Linden on 9425 1882.

Yours sincerely


Barry A Sargeant
DIRECTOR GENERAL

30 December 2009

Liquor Control Act 1988 Fees and Charges 2010

*Changes increased
by CPI*

*Changes
increased by cost
recovery*

ITEM	CURRENT FEE		NEW FEE		INCREASE/DECREASE (%)	EFFECTIVE DATE OF LAST INCREASE
	FEE	ELECTRONIC FEE	FEE	ELECTRONIC FEE <small>(Representing a 10% discount of the principal fee rounded to the nearest \$5 - \$10)</small>		
1.	2200.00	2000.00	2750.00	2475.00	25.00	23.75
						1-Jan-09
2.	500.00	460.00	750.00	675.00	50.00	46.74
						1-Jan-09
3.	500.00		750.00		50.00	1-Jan-09

4.	Annual licence fee for all licences other than a club restricted licence	155.00			500.00		322.59	1-Jan-09
6.	Annual licence fee for club restricted licence	155.00			250.00		61.30	1-Jan-09
7.	Annual licence fee for a wholesalers licence	330.00			500.00		51.52	1-Jan-09
8.	Penalty for late payment of annual licence fee	155.00			50% of total fee		N/A	1-Jan-09
9.	Regulation 26(1)(a) – 2 or less ETP'S	105.00			200.00		90.48	1-Jan-09
10.	Regulation 26(1)(b) – 3 or more ETP'S	205.00			400.00		95.13	1-Jan-09
11.	Application fee for an occasional licence where the anticipated number of persons attending* is –							
	(a) up to 250 persons	35.00			50.00		42.86	1-Jan-08
	(b) between 251 and 500 persons	80.00			100.00		25.00	1-Jan-08
	(c) between 501 and 1,000 persons	145.00			200.00		37.94	1-Jan-09
	(d) between 1,001 and 5,000 persons	610.00			1000.00		63.94	1-Jan-09
	(e) between 5,001 and 10,000 persons	1250.00			2000.00		60.00	1-Jan-09

	(f) over 10,000 persons	2500.00		4000.00		60.00	1-Jan-09
12.	Application for ETP for period over 21 days:						
	(a) issued for purpose under s.60(4)(ca)	370.00	340.00	400.00	360.00	8.11	1-Jan-09
	(b) issued for purpose under s.60(4)(h)	245.00	230.00	300.00	270.00	22.45	1-Jan-09
	(c) issued for any other purpose	670.00	620.00	1000.00	900.00	49.26	1-Jan-09
13.	Application fee for ETPs (other than for extended hours immediately after 10.00pm on a Sunday or from immediately after midnight on a Saturday) for 21 days or less	65.00		100.00 (for each day, up to a maximum of \$1000)		53.85	N/A
14.	Application fee for ETPs for extended hours after 10.00pm on a Sunday or from immediately after midnight on a Sunday			200.00		N/A	N/A
15.	Application for approval of manager after licence granted (other than club or club restricted licence)	80.00		140.00		75.00	1-Jan-09
16.	Application for approval of manager after licence granted (under club licence)	85.00		90.00		5.89	1-Jan-09
17.	Application for approval of manager after licence granted (under club restricted licence)	25.00		30.00		20.00	1-Jan-09

18.	Application for approval of person in position of authority (other than club or club restricted licence)	90.00		140.00			55.56	1-Jan-09
19.	Application for approval of person in position of authority (for a club or club restricted licence)	90.00		95.00			5.56	N/A
20.	Application for approval for alteration/redefinition of licensed premises	310.00	285.00	320.00	295.00	3.23	3.51	1-Jan-09
21.	Application for protection order under sec 87(1)	80.00		200.00			150.00	1-Jan-09
22.	Application for duplicate licence	30.00		35.00			16.67	1-Jan-06
23.	Application for approval of change of name of licensed premises	65.00		70.00			7.70	1-Jan-08
24.	Application to add, vary or cancel condition of licence or permit (other than club restricted)	80.00	70.00	200.00	180.00	150.00	157.15	1-Jan-09
25.	Application to add, vary or cancel condition of licence or permit (other than club restricted) for 21 days or less			100.00			N/A	N/A
26.	Application to add, vary or cancel condition of licence or permit of club restricted licence	30.00		40.00			33.34	1-Jan-06

27.	On the issue of a list of licensed premises or a list of owners of licensed premises	80.00		80.00		0.00	1-Jan-09
28.	On issue of licensed premises list on computer disk	50.00		50.00		0.00	1-Jan-09
29.	Address Labels for licensed premises	115.00		120.00		4.35	1-Jan-08
30.	Application for proof of age card (reg 18B)	25.00		25.00		0.00	1-Jan-08
31.	Supply of approved heading for advertising an application	25.00		25.00		0.00	1-Jan-09
32.	Copy of plan – per sheet (up to maximum of \$200)	25.00		25.00		0.00	1-Jan-08
33.	Certified copy of plan defining licensed premises	35.00		35.00		0.00	1-Jan-09
34.	Issue of a summons to a witness	20.00		20.00		0.00	1-Jan-09
35.	Copy of a licence, permit, or a decision of the Commission (or the former Liquor Licensing Court) or the Director	25.00		25.00		0.00	1-Jan-08
36.	For certification of copy of a licence or permit or decision of Court or Director	25.00		25.00		0.00	1-Jan-09
37.	For search of the database of records of licences – per licence	35.00		35.00		0.00	1-Jan-09
38.	For notice of application for approval of arrangement or agreement [section 68(1)(b)(i)]	70.00		200.00		140.84	1-Jan-09

39.	For copy of documentation, other than that already prescribed, per page	4.50		5.00		11.11	1-Jan-08
40.	For a search of postcodes						
	(a) 1 to 10 postcodes	35.00		35.00		0.00	1-Jan-09
	(b) more than 10 postcodes	70.00		75.00		7.14	1-Jan-09
41.	For a full search of the licence record	45.00		45.00		0.00	1-Jan-08
42.	Application under section 62(6) of the Act to vary any plans or specifications the subject of a condition	230.00	220.00	240.00	215.00	10.34 -7.72	1-Jan-08
43.	Application under section 126A for approval of entertainment for juveniles on licensed premises	55.00		60.00		9.09	1-Jan-08

APPENDIX 9
COMMITTEE LETTER DATED 30 MARCH 2010

APPENDIX 9

COMMITTEE LETTER DATED 30 MARCH 2010



JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION

Hon Terry Waldron MLA
Minister for Sport and Recreation; Racing and Gaming
Level 9 West
Dumas House
2 Havelock Street
WEST PERTH WA 6005

30 March 2010

By facsimile: 9213 7201

Dear Minister

Betting Control Amendment Regulations (No. 4) 2009, Casino Control Amendment Regulations 2009, Casino Control (Burswood Island) (Licensing of Employees) Amendment Regulations (No. 2) 2009, Gaming and Wagering Commission Amendment Regulations 2009, Racing Penalties (Appeals) Amendment Regulations 2009, Racing and Wagering Western Australia Amendment Regulations 2009 and Liquor Control Amendment Regulations (No. 7) 2009

I refer to previous correspondence between the Committee and the Department of Racing, Gaming and Liquor in relation to the above instruments.

As you may be aware, the Committee has resolved to disallow the above instruments and further resolved at its meeting on 29 March 2010 to draw your attention to the following matter.

The Department of Racing, Gaming and Liquor (**the Department**) provided the Department of Treasury and Finance with a document entitled 'Certification to the Department of Treasury and Finance in respect of Tariffs, Fees and Charges' which was signed by the Director General of the Department on 12 December 2008 and by you on 21 December 2008.

This document contained information attesting to:

- a review having been conducted of all the Department's fees and charges;
- the methodology for the costing of individual services (and setting of fees) being materially accurate; and
- the fact that there were no fees where greater than 100% cost recovery would be achieved.

By letters dated 2, 8 and 16 December 2009, the Committee requested the following information from the Department in relation to the seven instruments referred to above:

- a breakdown of the costs per unit of fee, if one was available;
- a comparison between the cost of the service and the fee charged;
- the level of cost recovery for the services; and
- whether any cross subsidisation was occurring.

In response to the Committee's inquiries, the Department advised the Committee by letter dated 30 December 2009 that:

[the] Department currently does not have the resources to undertake a full scale assessment on individual components making up the fees and charges for the above mentioned instruments; that is, comparing the costs for providing the service against the relevant fee charged.

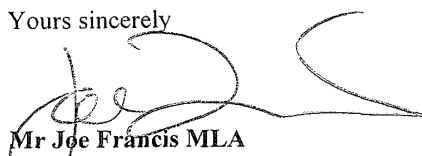
... while the Department continues to receive an appropriation from the consolidated fund (currently \$3.8 million), the majority of fees charged under the various instruments are below cost recovery.

Further, in relation to three of the instruments above, the Department advised the fees were not based on a cost recovery model.¹

The Committee is currently considering a report to Parliament on the instruments referred to above. The Committee seeks your comments on the disparity between the information provided in the certification document and the information which has been provided to the Committee by the Department.

Due to the Committee's timeframes for disallowance under the Legislative Council's Standing Orders, the Committee requests that you provide any comment by **5pm Thursday 8 April 2010**. If you have any queries, please contact the Committee's Advisory Officer (Legal), Ms Irina Lobeto-Ortega on ph: 9222 7302 or fax: 9222 7805.

Yours sincerely



Mr Joe Francis MLA
Chairman

cc: Ms Janine Belling, Acting Director General, Department of Racing, Gaming & Liquor
By facsimile: 9325 1636

Note that this document (including any attachments) is privileged. You should only use, disclose or copy the material if you are authorised by the Committee to do so. Please contact Committee staff if you have any queries.

¹ Betting Control Amendment Regulations (No. 4) 2009, Casino Control Amendment Regulations 2009, Gaming and Wagering Commission Amendment Regulations 2009

APPENDIX 10
DEPARTMENT OF RACING, GAMING AND LIQUOR
LETTER DATED 8 APRIL 2010

APPENDIX 10
DEPARTMENT OF RACING, GAMING AND LIQUOR LETTER
DATED 8 APRIL 2010



Government of **Western Australia**
Department of **Racing, Gaming and Liquor**

Your Ref :

Our Ref : MIN32-05208 / C02/17/41 -02

Enquiries: Mark Beecroft 9425 1881

Mr Joe Francis MLA
Chairman
Parliamentary Joint Standing Committee
on Delegated Legislation
18-32 Parliament Place
WEST PERTH WA 6000

Dear Mr Francis

I refer to your letter of 30 March 2010 to the Minister for Racing and Gaming seeking comments by 8 April 2010 on the disparity of information relating to the various instruments submitted by the Department of Racing, Gaming and Liquor that are subject to disallowance motion. As the Minister is currently unavailable and not able to meet your deadline, I have prepared a response on his behalf.

In relation to the document '*Certification to the Department of Treasury and Finance in respect of Tariffs, Fees and Charges*' signed by both the Minister and myself in December 2008, this document was an accurate reflection of the review of fees and charges undertaken by the Department that complied with the criteria set out by the Department of Treasury and Finance for reviewing government tariffs and fees and charges.

However, on 5 October 2009, to accommodate the West Australian Police Service moving towards a full cost recovery model, the Minister approved a change in the proposed liquor licensing fees contained in the December 2008 certification that are now subject to the disallowance motion.

In regard to the comments contained in my response to the Committee of 30 December 2009, my reference to "...the majority of fees and charged under the various instruments are below cost recovery" is referring to the fact that no fee charged by the Department is greater than 100 per cent cost recovery when taking into account the administration and compliance functions performed by the Department and that the fees are either at full cost recovery or below full cost recovery.

Under separate cover I have prepared a submission to the Committee in respect of the disallowance motion detailing the complexity surrounding the various fee structures administered by the Department that should provide further clarification to the Committee on this matter.

I have forwarded a copy of the letter to the Minister should he wish to endorse my comments.

Yours sincerely

Barry A Sargeant
DIRECTOR GENERAL

8 April 2010

cc: Minister for Racing and Gaming

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APPENDIX 11
DEPARTMENT OF RACING, GAMING AND LIQUOR
LETTER DATED 8 APRIL 2010

APPENDIX 11

DEPARTMENT OF RACING, GAMING AND LIQUOR LETTER

DATED 8 APRIL 2010



Government of Western Australia
Department of Racing, Gaming and Liquor

Your Ref :
Our Ref : F02/21/01
Enquiries:

Mr Joe Francis MLA
Chairman
Joint Standing Committee on Delegated Legislation
Legislative Committee Office
18-32 Parliament Place
WEST PERTH WA 6000

Dear Mr Francis

Betting Control Amendment Regulations (No.4) 2009, Casino Control Amendment Regulations 2009, Casino Control (Burswood Island) (Licensing of Employees) Amendment Regulations (No.2) 2009, Gaming and Wagering Commission Amendment Regulations 2009, Racing Penalties (Appeals) Amendment Regulations 2009, Racing and Wagering Western Australia Amendment Regulations 2009 and Liquor Control Amendment Regulations (No. 7) 2009.

Further to my letter of 26 March 2010, the following is provided by way of a submission to the Joint Standing Committee on Delegated Legislation for a review of its decision to proceed to disallowance in relation to the above instruments of subsidiary legislation.

The Department of Racing, Gaming and Liquor ('DRGL') is essentially a regulatory service organisation and provides support services to the Gaming and Wagering Commission of Western Australia ('the Commission'), Racing Penalties (Appeals) Tribunal ('the Tribunal') and the Liquor Licensing Authority.

Neither the Commission nor the Tribunal receives Consolidated Fund support. The Commission receives an annual casino fee from Burswood (which was \$2.1 million in 2009/10) and the Tribunal receives an annual contribution from Racing and Wagering Western Australia ('RWAA'). DRGL recoups the cost of services provided to the Commission and the Tribunal.

All fees are subject to an annual review to ensure they meet a number of criteria. The criteria is set out in the Department of Treasury and Finance guidelines for the Review of Government Tariffs, Fees and Charges and includes the objective of achieving or making adequate progress towards achieving fully cost recovery, where applicable.

Annual reviews of fees and charges have generally resulted in the CPI movement only being applied to the fee established as the base fee when the legislation came into operation, which was not structured on a model of full cost recovery. In instances where some liquor licensing fees increased beyond CPI, it was only to the extent that they offset the Consolidated Fund support of DRGL.

While some parallels may be drawn with applications of similar type, each application is unique and therefore may vary in time and cost to process; but at law each application must be dealt with on its merits.

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Factors that affect the cost of processing an application include, but are not limited to: additional information requirements, the need for police reports, whether it is a contested or uncontested application, decision-maker's classification and whether the matter can be determined under delegation particularly in regards to matters administered by the Commission. If full cost recovery of the service was to apply, it would be difficult to assign the cost of compliance in regards to the activities that are subject to inspection and audit. Time spent on each inspection or audit is not constant and there is also the factor that inspections and audits are conducted throughout the State.

DRGL's 2008/09 Annual Report reported the average cost of determining applications and the conducting inspections was \$424 and \$471, respectively.

All fees contained in the instruments subject to the disallowance motion, with the exception the casino employee and casino key employee licence renewal fee, are based on the original fees established at the time of the relevant instrument coming into operation, which were not structured on a model of cost recovery. When the liquor licensing fees were introduced originally in 1989, the fees were consistent with fees imposed by liquor authorities in other States and this was during an era when all licensing authorities collected annual licence fees on a sales percentage basis. In its final year – 1988, Western Australia collected in excess of \$70 million. In most cases, application fees at that time reflected a proportion of the administration costs only incurred in collecting and processing applications and did not include indirect costs or expenses incurred for regulatory inspections.

In regards to the renewal fee for casino employee and key employee licences, these fees came into operation on 2 July 1999 and were structured on 100 per cent cost recovery.

Consistent with past practices, with the exception of the some liquor licence fees, the existing fees that came into effect on 1 January 2010 (and are the subject of these instruments) have been increased in accordance with the Perth CPI rate as advised by the Department of Treasury and Finance, which for the September 2008 quarter was 4.2 per cent. Fees that had not increased in past reviews due to minimum impact of the CPI rate, were reassessed by applying the accumulated CPI growth. In cases where there has been sufficient growth to exceed a \$5 increase, or enable rounding to the nearest \$5, those fees have been increased. It must be noted, however, that CPI increases are based on the notional fee and not the rounded fee.

The Certification signed by the Minister for Racing and Gaming and the Director General in December 2008 was on the basis that the review was undertaken in respect to applying the CPI growth.

Liquor Licensing Fees

Liquor licensing fees raised on 1 January 2009 while, to some extent, formed the basis of establishing cost recovery benchmarks, only took into account the direct cost associated with processing an application and not the full cost of the provision of the service, which includes the compliance function and indirect costs.

As part of the cost recovery process endorsed by the Government, the Western Australian Police Service ('WAPS') is now passing on the cost of carrying out integrity checks which are required under the *Liquor Control Act 1988*. This has put increased pressure of approximately \$700,000 on DRGL's annual budget.

Consequently, on 5 October, 2009, the Minister approved additional increases in some liquor licence fees to accommodate the full cost recovery for the external integrity check service provided by the WAPS, and progression towards full cost recovery for the service provided; that is the regulation of the sale, supply and consumption of liquor.

DRGL's progress towards full cost recovery means it is necessary to pass on more costs to licensees as the cost of regulating the liquor industry presently exceeds revenue by approximately \$3.8 million, which would increase to \$4.5 million without an increase in fees.

The increase in fees is expected to raise an additional \$1.7 million in a full year. Therefore, after meeting the WAPS charge for integrity checks, the operating costs of DRGL will still exceed revenue by \$2.8 million.

In addition to these operating costs, it should also be noted that from 1 July 2010, lease accommodation costs will increase to \$425.00 per square metre (i.e. 124% increase on current lease costs).

While issues associated with alcohol in our community have been increased markedly in recent times, the costs of regulating the liquor industry have also increased. However, the annual licence fee is not just about inspections or activities relating to anti-social behaviour. There is a general overhead cost of establishing and maintaining the regulatory function and this needs to be shared by all licensees within the regulatory regime. In this regard, the nature of the regulatory responsibilities of the DRGL does not create a significant differential in the per venue cost of regulating the various categories of liquor licences; for example, the cost of regulating approximately 580 wine and beer producers is not significantly different to the cost of regulating the 510 liquor stores in Western Australia.

There is also an expectation by licensees that there is an infrastructure in place to accept and process applications from existing licensees in relation to: appointment of managers; transfer of business; relocation of business; varying of licence conditions; changes to corporate structures; and issuing various permits.

Effective from 1 January 2010, the annual licence fee for all licences other than a club restricted licence is \$500. For a club restricted licence the fee is \$250.

With respect to the annual liquor licence renewal fees paid in other states, those fees can be summarised as follows:

NSW and **South Australia** do not have any annual licence renewal fees.

Tasmania's fee ranges from \$205 to \$438.

Queensland has a base fee range from \$250 to \$10,000. Licences issued:

- | | |
|---|---------|
| ➤ for community purposes the fee is | \$250 |
| ➤ for small clubs the fee is | \$500 |
| ➤ for restaurants and wine producers the fee is | \$500 |
| ➤ for hotels the fee is | \$2,700 |
| ➤ for each bottle attached to an hotel the fee is | \$3,000 |

To this base fee must be added either

- \$7,500 if the licence is authorised to trade from 12 midnight to 3:00am; or
- \$10,000 for trading after 3:00am

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In addition, \$5,000 or \$10,000 is payable if the licensee has an adverse compliance history. Hence, a Queensland hotel without a detached bottle shop, would pay an annual liquor licence fee of \$10,200 if it trades from 12 midnight to 3:00am or \$12,700 if it trades after 3:00am.

Victoria has a base fee range from \$255 to \$1,420. Licences issued:

- for restaurants and wine producers, restricted club the fee is \$355
- for general purpose (including hotel) the fee is \$710
- for liquor store the fee is \$1,420

To the base fee must be added either \$1,420 if the licence is authorised to trade from 11:01pm to 1:00am or, \$2,840 for trade from 1:01am to 3:00am or \$5,680 for trading after 3:00am.

In addition, \$2,840 or \$5,680 is payable if the licensee has an adverse compliance history.

Further, where risk fees [when licence authorises trade after 11:01pm] are payable, for patron numbers above 100, the total fee is multiplied by factors ranging from 1.5 to 2.4.

Hence, for a large Victorian hotel the annual licence renewal fee could be \$25,560, for a medium hotel \$12,780 and for a small hotel, \$5,325.

The Tribunal

The Tribunal does not receive Consolidated Fund support. It receives the application fees in relation to racing appeals in addition to the contribution from RWVA. In all cases, the cost of the service to the consumer is subsidised by the Tribunal. For example, in 2008/09 the average cost to hear and determine a racing appeal was \$15,707, yet the fee for lodgement of a notice of appeal from 1 January 2010 is \$125 or \$310 depending on the racing code. If full cost recovery was levied, then it would likely to be a barrier to entry.

The Commission

The Commission does not receive Consolidated Fund support. It receives the application fees for community gaming, casino and wagering. It also receives the annual casino licence fee from Burswood.

As with the Tribunal, the cost of the service to the consumer is subsidised by the Commission. In setting fees, the Commission is particularly mindful of the effect large increases would have on not-for-profit community organisations raising funds through activities provided under the *Gaming and Wagering Commission Act 1988*. If full cost recovery was levied by the Commission, particularly in relation to community gaming, then it would likely to be a barrier to entry.

From 1 July 2010, the Commission will also have to meet its share of the increased lease accommodation costs.

The Commission is a self funding organisation (i.e. it does not receive any funding from the Consolidated Fund) and sets its fees to cover its total operating costs. Although in 2009/10 the Commission budgeted for an operating deficit of \$337,000, this is covered by surpluses reported in previous years – in 2008/09 the Commission reported an operating surplus of \$290,000.

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Summary

With the exception of the fee for the renewal of a casino employee or casino key employee licence, the fees contained in the subject instruments do not achieve full cost recovery when taking into account the cost of the compliance function.

The disallowance of the instruments relating to community gaming, casino, wagering, and racing appeals would impact on the revenue raised by the Commission and Tribunal and likely to lead to greater increases in the future.

Large increases in community gaming fees could be cost prohibitive for some community organisations to utilise the service, which already balk at the cost for permits.

Without an increase in liquor licensing fees, the 2009/10 operating costs of administering the *Liquor Control Act 1988* will exceed revenue by \$4.5 million (compared to \$2.8 million if the fees are increased). To meet the additional cost, Consolidated Fund support for the DRGL would need to be increased, hence an impost on non users of the service to fund the service.

DRGL will continue to make progress to towards full cost recovery for service delivered, however the timeliness needs to be balanced against the resources required to undertake a full costing analysis.

If it will be of assistance to the Committee, I am available to meet with the Committee to explain DRGL's position on this matter.

I respectfully submit that the Joint Standing Committee on Delegated Legislation review its decision to proceed to disallowance in relation to the above instruments of subsidiary legislation, in light of the above information.

Yours sincerely



Barry A Sargeant
Director General

8 April 2010

cc: Minister for Racing, Gaming and Liquor