

Conclusion

The passage of the state referral bill through the Victorian parliament is an important step towards implementing a landmark law reform measure. The establishment of a single national law and an electronic register by which security interests can be recognised will be conducive towards greater levels of secured financing of businesses and business activities in Australia. However, as with any new major reform, the proper implementation and the ongoing monitoring of the PPS scheme is critical to the scheme's success. Under the PPS agreement, the states will play an important role in scrutinising policy developments and ensuring that the commonwealth provides a scheme that appropriately meets the needs of, and is responsive to, businesses, consumers and other users of the system.

I commend the bill to the house.

Debate adjourned on motion of Dr NAPHTHINE (South-West Coast).

Debate adjourned until Thursday, 27 August.

GAMBLING REGULATION FURTHER AMENDMENT BILL

Statement of compatibility

Mr ROBINSON (Minister for Gaming) tabled following statement in accordance with Charter of Human Rights and Responsibilities Act:

In accordance with section 28 of the Charter of Human Rights and Responsibilities (the charter), I make this statement of compatibility with respect to the Gambling Regulation Further Amendment Bill 2009 (the bill).

In my opinion the bill, as introduced to the Legislative Assembly, is compatible with the human rights protected by the charter. I base my opinion on the reasons outlined in this statement.

Overview of the bill

The objectives of the bill are to amend the Gambling Regulation Act 2003 to improve the operation of that act. The bill provides for:

- (a) gaming machine and gaming machine entitlements-related amendments;
- (b) wagering and betting-related amendments;
- (c) lotteries-related amendments;
- (d) Club Keno-related amendments;
- (e) keno-related amendments;

- (f) administration and enforcement-related amendments.

Human rights issues

Human rights protected by the charter that are relevant to the bill.

Section 13 — privacy and reputation

A person has the right:

- (a) not to have his or her privacy, family, home or correspondence unlawfully or arbitrarily interfered with; and
- (b) not to have his or her reputation unlawfully attacked.

The right to privacy concerns a person's 'private sphere', which should be free from government intervention or excessive unsolicited intervention by other individuals. An interference with privacy will not be unlawful provided it is permitted by law, is certain and is appropriately circumscribed. An interference will not be arbitrary provided that the restrictions on privacy are reasonable in the particular circumstances and are in accordance with the provisions, aims and objectives of the charter. In the bill, there are provisions that engage the right to privacy.

The proposed s 3.7.6A provides that the minister may give a written direction to a gaming operator requiring the operator to provide to the minister any information or document or any class of information or document that is in the possession or under the control of the operator and in the opinion of the minister relates to the kind of things that the monitoring licensee would be authorised to do under the monitoring licence.

Whilst both the gaming operator and the monitoring licensee are body corporates and are not protected by the charter, it is conceivable that the information sought may relate to the personal affairs of persons working for the gaming operator. The interference is not unlawful because it is provided by law, is certain as it only relates to the kind of things that the monitoring licensee will be authorised to do and is appropriately circumscribed because it relates to gaming operations.

The proposed s 4.3.34 provides that the minister may give a written direction to the wagering licensee requiring the licensee to provide to the minister any information or document or any class of information or document that is in the possession or under the control of the licensee and that the minister considers is relevant to certain matters. Whilst the wagering licensee is a body corporate and not protected by the charter, it is conceivable that the information sought may relate to the personal affairs of persons involved with the wagering licensee. The interference is not unlawful because it is provided by law, is certain as it only relates to the business of the wagering licensee and is appropriately circumscribed because it only relates to the wagering licensee.

The proposed s 6.6.1 provides that the minister may give a written direction to a participant of Club Keno requiring the participant to provide to the minister any information or document or any class of information or document that is in the possession or under the control of the participant and that the minister considers is relevant to a number of issues.

Whilst a participant is not a natural person, it is conceivable that the information sought may relate to the personal affairs of persons working for the participant. The interference is not unlawful because it is provided by law, is certain as it only relates to the keno licence and is appropriately circumscribed because it only relates to the keno licence.

Pursuant to proposed s 6A.3.39A the minister may give a written direction to a keno licensee requiring the licensee to provide to the minister any information or document or any class of information or document that is in the possession or under the control of the licensee and that relates to the activities conducted under the licence.

Whilst a keno licensee is a body corporate and not protected by the charter, it is conceivable that the information sought may relate to the personal affairs of persons working for the keno licensee. The interference is not unlawful because it is provided by law, is certain as it only relates to the activities conducted under the licence and is appropriately circumscribed because it only relates to activities under the licence.

Section 15 — freedom of expression

Every person has a right to freedom of expression.

This right to freedom of expression includes a right against forced expression. A number of proposed sections provide for the provision of information.

Pursuant to the proposed sections noted above, the minister may give written directions to a number of entities. However, all the entities are either body corporates or clubs and, accordingly, no charter issue is engaged.

Section 20 — property rights

A person must not be deprived of his or her property other than in accordance with law.

A deprivation of property is in accordance with law when the deprivation occurs under powers conferred by legislation and the law is precise and not arbitrary.

The various licences as provided for in the Gambling Regulation Act 2003 are property within the meaning of s 20. Where a licence-holder does not have a reasonable expectation as to the lasting nature of the licence, a property right will not arise.

A number of the provisions of the bill allow for the various licences to be amended which could affect the operation of those licences. One provision provides for buyback procedures and one allows a person to take over the monitoring licence business.

The proposed s 3.4A.20F provides that the commission may make a written direction to an entitlement holder specifying the required number of gaming machine entitlements that must be reduced by the entitlement holder.

The proposed s 3.4.59C(1A) provides that the minister may, at any time, decide to make an amendment to the monitoring licence and give written notice of the decision to the monitoring licensee.

The proposed sub-ss 3.4.59G(1)(a) to (d) add further reasons where the monitoring licence can be suspended.

The proposed s 3.4.59LF provides that where the minister does not grant any application for a monitoring licence, the minister may, if the minister is satisfied it is in the public interest to do so, direct by written notice, the commission to appoint a monitoring services provider to provide monitoring services and to manage the business of the monitoring licensee.

The proposed s 3.4.59LG provides that where the monitoring licence is cancelled, suspended or surrendered, the minister may direct the commission to appoint a monitoring services provider to provide monitoring services and to manage the business of the monitoring licensee.

The proposed s 3.4A.27A provides that if an entitlement holder has not reduced any gaming machine entitlements pursuant to a notice then they are forfeited to the state.

The proposed s 4.3A.23(1A) provides that the minister may, at any time, decide to make an amendment to the wagering and betting licence and give written notice of the decision to the wagering and betting licensee.

The proposed s 5.3.19(1A) provides that the minister may, at any time, decide to make an amendment to the public lottery licence and give written notice of the decision to the public lottery licensee.

The proposed s 6A.3.22(1A) provides that the minister may, at any time, decide to make an amendment to the keno licence and give written notice of the decision to the keno licensee.

Whilst the above sections affect licences, if licences are property, it is not property that belongs to a natural person and, accordingly, the charter is not engaged. In any event, an amendment for the worse in any of the licences would not be a deprivation of property.

The bill also inserts the words 'monitoring equipment' in ss 10.5.29(1) and (2) and (5)(a)(b). This will allow an inspector to seize, without any warrant, any monitoring equipment that the inspector reasonably suspects is monitoring equipment that is not authorised under a gaming act to be in the premises. Pursuant to the section, the inspectors may apply to a court not less than 28 days after seizure of the equipment for an order that the equipment be forfeited to the state. The court must order that the equipment be returned if it is not satisfied that the equipment is monitoring equipment or monitoring equipment authorised under a gaming act.

If the monitoring equipment is forfeited then the deprivation occurs under powers conferred by legislation and the law is precise and not arbitrary.

Conclusion

I consider that the bill is compatible with the Charter of Human Rights and Responsibilities because, to the extent that it limits human rights, those limits are reasonable and proportionate.

Hon. Tony Robinson, MP
Minister for Gaming

Second reading

Mr ROBINSON (Minister for Gaming) — I move:

That this bill be now read a second time.