GOVERNMENT OF WESTERN AUSTRALIA

Department of **Local Government, Industry Regulation and Safety**

Review and Reform of Western Australian Gambling Laws

Regulatory Impact – Consultation Paper

Contents

Consultation on the Review and Reform of WA Gambling Laws

Executive Summary

Western Australia's gambling laws are in need of reform. The state's current regulatory framework for gambling is a patchwork of legislation passed over the last 71 years. Although this framework has occasionally been amended – usually in response to a government inquiry or royal commission – it has never been comprehensively reviewed and updated.

The WA Government is undertaking a full review and reform of WA gambling laws to establish a modernised, harmonised, best-practice regulatory framework for all gambling activities in WA.

The purpose of this Consultation Paper is to set out proposals for significant reforms that could be incorporated into the new framework, and provide an opportunity for stakeholders, interested parties and the public to comment on those proposals.

Have your say

How to make a submission

A number of questions are included throughout this Consultation Paper about the proposed reform options. You do not have to respond to all the questions or all the options. Please feel free to focus on the areas that are important and relevant to you. There is no specified format for submissions or responses.

You are welcome to:

- write a letter or send us an email outlining your views
- tell us your own experience, and/or
- respond to specific questions in this Consultation Paper.

You are also welcome to suggest alternative options for addressing matters of concern to you.

When providing your submission or response to questions, it would be helpful if you could include the reasons behind your suggestions, along with the potential costs and benefits of them. This will help the WA Government to better understand your viewpoint and will assist with assessing the potential impact of the most suitable options for reform.

Written submissions or letters can be emailed to **gamblinglawreforms@lgirs.wa.gov.au** or posted to:

Attention: **Gambling Legislation Reform**
Department of Local Government, Industry Regulation and Safety
PO Box 8349
Perth Business Centre WA 6849

Who are you?

When making your submission please let us know which part of the industry or community you are from. For example, whether you are a gambling services provider such as a bookmaker, casino employee, community gaming organiser or equipment supplier, a gambling services support provider, or you are a person who participates in gambling or has been impacted by gambling.

Closing date

The closing date for providing comments on this Consultation Paper is 12 December 2025.

How your input will be used

The WA Government will carefully consider all the information gathered through this consultation process and will publish a Decision Regulatory Impact Statement ('DRIS') outlining its final policy position.

Please note that, as your feedback forms part of a public consultation process, the WA Government may quote from your comments in future publications. If you prefer your name to remain confidential, please indicate this in your submission. As all submissions made in response to this Consultation Paper will be subject to freedom of information requests, please do not include any personal or confidential information that you do not wish to become publicly available.

Disclaimer

This document has been released to seek feedback on proposed reforms to gambling legislation in Western Australia and does not represent, or purport to represent, legal advice or constitute government policy. All due care has been exercised in the preparation of this document.

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Introduction

Background

Western Australia's gambling legislation has not been comprehensively updated since the enactment of a range of statutes for regulating the gambling industry between 1954[1] and 2003[2]. The social, political, economic, technological and regulatory environment has changed significantly since the oldest of the current gambling laws were introduced up to 71 years ago.

In 2022, the Perth Casino Royal Commission ('PCRC') described the legislative framework for casino regulation in WA as *'obsolete'*, *'anachronistic'* and *'not fit-for-purpose'*, concluding that it *'requires replacement with a modern regulatory framework'*. It also found that the relevant legislation…

> *'was flawed from conception in that it failed to identify the legislative objectives of casino regulation and to clearly express the associated duties and powers of the regulator to meet those objectives.'*[3]

Although the PCRC was concerned only with casino regulation, these findings are equally applicable to the rest of the patchwork of legislation under which the Gaming and Wagering Commission of Western Australia ('GWC') regulates gambling in WA. None of the current gambling statutes identify any legislative objectives. They also contain numerous anachronisms – for example, bookmakers are required to apply, in writing, and pay a prescribed fee, for the GWC's approval to use a computer to facilitate bets, keep records, and produce betting tickets.[4]

It is clear that the full suite of legislation is long overdue for comprehensive review and reform.

This Consultation Paper relates to a full review and reform of WA gambling laws to establish a modernised, harmonised, best-practice regulatory framework for all gambling activities in WA.

This review and reform constitutes the final tranche of a recent suite of reforms, following:

- the *Casino Legislation Amendment (Burswood Casino) Act 2022* in September 2022, which implemented interim measures recommended by the PCRC.
  a) This Act amended the *Gaming and Wagering Commission Act 1987* ('GWC Act') and the *Casino Control Act 1984* ('Casino Control Act') to create the Office of the

[1] *Betting Control Act 1954*.
[2] *Racing and Wagering Western Australia Act 2003*.
[3] PCRC (2022), *Final Report*, WA Government, accessed 20 August 2025, p.9.
[4] Betting Control Regulations 1978, r.37(5).

Independent Monitor, provide for the appointment of an independent Chair of the GWC, and permit GWC members to elect a Deputy Chair.

b) It also strengthened the powers of the Minister to direct the GWC in relation to Burswood Casino and the PCRC and the powers of the GWC to direct the casino licensee, and increased the maximum penalty for the casino licensee to $100 million, and to $250,000 for non-compliance with a GWC Direction.

- the *Casino (Burswood Island) Agreement Amendment Act 2023*, enacted in March 2024.
  a) This Act ratified amendments to the Casino (Burswood Island) Agreement ('State Agreement') under the *Casino (Burswood Island) Agreement Act 1985* ('CBIA Act') to increase the base rate of the annual specified amount of the casino gaming licence fee to $12 million. This amendment reflected the findings of the PCRC that the funding of the GWC needed to be reviewed and updated to ensure the GWC had adequate funding to regulate the Perth Casino to a standard that meets community expectations.[5]
- the *Gambling Legislation Amendment Act 2024*, enacted in December 2024.
  a) This Act made a number of changes to Western Australia's gambling legislation to: increase penalties and the GWC's enforcement powers (including an increase to the maximum penalty for the operator of the WA TAB from $100,000 to $100 million); create a clear mechanism for implementing policies agreed to by the Australian and State Governments, such as the National Consumer Protection Framework for Online Gambling ('NCPF'); and provide for the licensing of a particular kind of regulated interactive gambling service to address a gap between the *Interactive Gambling Act 2001* (Cth) ('Interactive Gambling Act') and the regulation of interactive gambling in Western Australia.

  A number of consequential amendments to subsidiary legislation were also made, including amendments to prescribe modified penalties, together with regulations to give effect to the NCPF.

A patchwork of legislation – Tracing the evolution of gambling laws in Western Australia

Australia does not have a single, whole-of-government approach to gambling regulation.

Legislation that regulates gambling exists at both the state and federal levels. The Australian Government has primary responsibility for regulating online gambling, gambling advertising and anti-money laundering/counter-terrorism financing ('AML/CTF'). State governments can pass laws to regulate intrastate gambling operators and activities. These laws can include, to the extent they are not inconsistent with Commonwealth legislation,[6] laws about online gambling, gambling advertising and AML/CTF.

[5] PCRC (2022), *Final Report*,p.291.
[6] Australian Constitution, s.109.

Gambling legislation in Western Australia has been enacted over a long period on an *ad hoc* basis[i] in response to emerging issues and recommendations from successive government inquiries and royal commissions.

A brief summary of Western Australia's gambling history and legislative development is set out below.

Cultural and colonial inheritance

Horse and dog racing are widely considered to be two of the oldest sports in the world. Popular in Britain during the eighteenth century, these sources of betting came to Australia with colonisation and, together with other British card games and two-up, were quickly established as a popular leisure activity.[ii] Traditional Asian gambling was brought to Australia in the 1840s by Chinese migrants and spread through the goldfields and then to the major cities.[iii]

These gambling activities were complemented during the nineteenth century by games with European influences, like baccarat, and the development of the parimutuel system of betting in France in the 1870s.[iv]

Western Australia's earliest regulation of gambling was through the adoption of English imperial statutes, including the *Unlawful Games Act 1541* (passed during the reign of King Henry VIII), the *Gaming Act 1744*, and the *Gaming Act 1845* – some of which were repealed or partially repealed. Laws about common gaming houses were later introduced in the *Police Act 1892*.[v]

Horse racing

The first recorded race meeting in Western Australia was held in Fremantle in October 1833, just four years after the Swan River Colony (later known as Perth) was established in 1829.[vi]

In 1852, the privately owned Western Australian Turf Club was established as the principal racing club in WA for the organisation and regulation of racing.[vii]

Legality of bookmaking

The legality of on-course bookmaking on horse racing in Western Australia at this time was questionable.[viii] Its legal status was not clear under the *Criminal Code*.[ix] Despite this, bookmakers were openly licensed by racing clubs (not by the WA Government) and were required to pay WA Government stamp duty on their betting tickets.

The legality of off-course betting was also ambiguous. Legislation prohibited off-course betting but only if it was done with cash or involved customers attending a premises.[x] The legislation did not prohibit street betting or prevent minors from betting. Many off-course bookmakers simply adjusted their practices to carry on business within the law.

Illegal bookmaking flourished in the 1930s with the development of telephones and radio broadcasting.[xi]

Prior to 1942, policing illegal bookmaking was difficult because the existing laws were inadequate.[xii] In 1942, police were given powers to close illegal off-course betting shops under amendments to the *Criminal Code*.[xiii] This was the first of many legislative patches aimed at regulating the proliferation of betting. It was not effective. In the absence of a specific prohibition against street betting, off-course bookmakers simply moved into the streets.[xiv]

The only avenue for law enforcement was to charge bookmakers with loitering or obstructing traffic under the *Traffic Act 1919*.[xv] However, it was difficult to obtain evidence to support successful prosecutions under these laws because clients often warned bookmakers of police approaching.[xvi] In many country towns, local Justices of the Peace would also refuse to sit on the bench when bookmakers were charged.[xvii]

1948 Royal Commission on Betting

The growing need for effective gambling laws prompted the WA Government to establish a royal commission in 1948.

The Commission found that existing gambling laws were inadequate and ineffective:

> *'…Western Australia has lagged far behind England and the other States so far as betting legislation is concerned. The present state of the law here can only be regarded as chaotic and hopelessly inadequate and ineffective in the light of present-day conditions. The enactment of a betting and gaming code is an urgent necessity.'*[xviii]

Betting Control Act 1954

As a result of the 1948 Royal Commission on Betting, the *Betting Control Act 1954* ('Betting Control Act') was enacted.

The Betting Control Act legalised betting by bookmakers and required all bookmakers to be licensed by the WA Government.[xix] It also provided for the establishment of a Betting Control Board with authority to license bookmakers and register premises or betting shops where licensed off-course bookmakers could operate.[xx]

1959 Royal Commission on Betting

The introduction of the Betting Control Act had an unintended negative impact on the racing industry. The large-scale licensing of off-course betting shops contributed to a decline in race-course attendance and diverted profits away from the racing industry.[xxi] Due to these factors, the industry fell on hard times.

Another royal commission was established in 1959 to inquire into and report on betting on horse-racing in or beyond the State and the existing legislation, including the Betting Control Act and the *Bookmakers Betting Tax Act 1954*.[xxii] The Commission recommended betting shops be abolished and an off-course totalisator scheme be established.[xxiii]

Totalisator Agency Board (1961)

As a result of the 1959 Royal Commission, the Totalisator Agency Board ('TAB') was established by the *Totalisator Agency Board Betting Act 1960* (repealed) to replace all licensed off-course betting shops.[xxiv] The TAB became the sole provider of off-course betting services in Western Australia. Revenue generated by the TAB was directed back to the racing industry to refurbish racecourses and increase racing prize money.[xxv]

1974 Royal Commission into Gambling

Until the 1970s, casino gambling was illegal throughout Australia.[xxvi] Despite this, illegal gaming was commonly undertaken in 'mini–casinos' run from coffee lounges and restaurants in Northbridge and in country-based two-up schools in Western Australia in the 1960s and 70s. These activities were subject to occasional raids as part of a police policy of containment, toleration and control.[xxvii]

Interest in controlling this illegal gambling, boosting government revenues and promoting regional tourism and economic development grew[xxviii]and the 1974 Royal Commission into Gambling was established to make recommendations about all aspects of gambling in Western Australia. Its recommendations included: expanding the scope of permitted community gaming for not-for-profit organisations; the development of a casino in a tourist holiday complex in Exmouth; that funds should be provided out of the profits of gambling to finance research into the causes of, and treatment for, 'compulsive gambling'; and establishing a single statutory authority to operate and control *'as far as reasonably possible'* all gambling.[xxix]

Back Bench Committee (1981)

In 1981, the WA Government appointed three government back benchers to report on public sentiment regarding the recommendations of the 1974 Royal Commission.[xxx] The Back Bench Committee reported that most people supported the Commission's recommendations for a casino and a general relaxing of gambling laws for fundraising by non-profit clubs.

Despite the recommendation of the Back Bench Committee to relax gambling laws, the *Police Act 1892* was amended in 1982 to crack down on illegal gaming.[xxxi] The amendments included additional provisions to prosecute illegal operators and increased penalties for illegal gaming. These measures failed to reduce illegal gaming and drove it underground.[xxxii]

Government Casino Advisory Committee (1983)

As a result of the 1974 Royal Commission and the report of the Back Bench Committee, the WA Government established the Government Casino Advisory Committee in March 1983 to formulate a legislative framework for the establishment and control of a casino.[xxxiii]

While the members of the Government Casino Advisory Committee were unable to reach consensus about whether Western Australia should establish a casino, they unanimously

recommended that any legal casino be governed by legislation and regulated by a statutory authority.[xxxiv]

Casino Control Act 1984

Following the various inquiries above, the Casino Control Act was enacted to allow the responsible Minister to negotiate with a public company to construct a casino in Western Australia. It introduced a legislative framework for the WA Government to grant a casino licence and to control casino gaming operations.

The Casino Control Act also established a Control Committee to regulate casino operations.

In 1985, the CBIA Act was passed and ratified the State Agreement for the construction and establishment of a casino.

In 1985, regulations were made under to the Casino Control Act to require casino employees to be licensed.[7]

Gaming Inquiry Committee (1984)

In 1984, the WA Government established the Gaming Inquiry Committee to review gaming legislation in Western Australia.[xxxv]

The Gaming Inquiry Committee found existing gaming laws contained many anomalies which resulted in problems with enforcement.[xxxvi] They recommended immediate legislative amendments to consolidate gaming laws into a single piece of legislation.[xxxvii]

Gaming Commission Act 1987

In 1987, the *Gaming Commission Act 1987* ('Gaming Commission Act') was passed in accordance with the Gaming Inquiry Committee's recommendations. It also incorporated a number of the 1974 Royal Commission's recommendations.

The Gaming Commission Act established the Gaming Commission, permitted community organisations to organise social gaming events provided they were not conducted for commercial or private gain, and provided for the regulation of gaming and betting connected with gaming. It did not regulate betting related to horse racing or greyhound racing, which remained under the Betting Control Act and the *Totalisator Agency Board Betting Act 1969*.[xxxviii]

Review of the Gaming Commission Act (1995)

When enacted, the Gaming Commission Act included a statutory review clause requiring the Minister to review its operation and effectiveness after five years to consider the Gaming Commission's performance and the need for its continued operation.[xxxix] This review was undertaken in 1995 with expanded terms of reference, including the review of all legislation administered by the Gaming Commission and the broader impact on the

[7] Casino Control (Burswood Island) (Licensing of Employees) Regulations 1985.

community and industry stakeholders. The review did not consider the CBIA Act or the issue of gaming machines outside the casino.

The review made 57 recommendations including: expanding the definition of two-up; enhancing powers of authorised officers to gather evidence; requiring mandatory forfeiture of unlawful gaming machine; and providing a head of power for prescribing, by regulation, people to whom free bingo books could be issued. It also proposed various amendments regarding lotteries. Forty-one recommendations were endorsed by the Minister. Recommendations requiring legislative amendment were implemented by the enactment of legislation passed in 1998.

Based on the 1995 review, the Minister found the Gaming Commission to be effective in its administration of gaming legislation and recognised there was a need for the continuation of its functions.

Sports betting

Sports betting was illegal in Western Australia until the 1980s. However, this did not prevent illegal betting on sports including cricket, football, boxing and golf.[xl]

The true potential of sports betting began to be revealed in the 1990s with the emergence of licensed sports betting agencies, initially in the Northern Territory and subsequently in other states. By 1999 sports betting was being offered in all Australian jurisdictions by approved bookmakers and most TABs.

Turner Report into the racing industry (2000)

In 2000, the WA Government initiated an independent committee review of the racing industry in Western Australia.[xli]

The committee's report ('Turner Report') recommended a framework of governance designed to provide the racing industry in Western Australia with greater cohesion and the capability to develop strategic directions and become more self-regulating. It also recommended the TAB be abolished and its functions absorbed by the new governing body.[xlii]

Racing and Wagering Western Australia Act 2003

As a result of the Turner Report, the *Racing and Wagering Western Australia Act 2003* ('RWWA Act') was enacted.

The RWWA Act:

- established Racing and Wagering Western Australia ('RWWA') as the controlling authority for thoroughbred, harness and greyhound racing in Western Australia.[xliii]
- abolished the TAB and transferred responsibility for the conduct of off-course betting to RWWA through the operation of the WA TAB.
- abolished the Betting Control Board and transferred its functions to the Gaming Commission of Western Australia, which was subsequently re-named the Gaming and Wagering Commission of Western Australia.

In 2019, legislative amendments were made and partially proclaimed to prepare for the sale of the WA TAB to a private owner to operate as a wagering licensee.[8] Ultimately a sale did not eventuate and RWWA continues to operate the WA TAB. Western Australia is the only jurisdiction in which the exclusive business of operating an off-course totalisator wagering service on races and sporting and other events has not been privatised.

Today, the GWC and RWWA have closely intersecting regulatory responsibilities:

- RWWA regulates racing (by appointing stewards with wide-ranging powers to control and regulate each racing code)
- the GWC regulates gambling on racing
- RWWA operates the WA TAB
- the GWC regulates the gambling operations of the WA TAB.

Perth Casino Royal Commission

In 2019, a royal commission was established in New South Wales (the 'Bergin Inquiry') following media reports that Crown Resorts had allowed money laundering by organised crime at its casino in Sydney.[xliv]

The Bergin Inquiry concluded that the operator of Crown Sydney was not a suitable person to hold a casino licence in New South Wales and made findings that related to the Melbourne casino and Perth Casino.

In February 2021, Victoria established a royal commission to inquire into whether the operator of the Melbourne casino was a suitable person to continue to hold the Melbourne casino licence and related matters.[xlv]

Against the backdrop of findings in New South Wales and Victoria that two other subsidiaries of Crown Resorts Limited were either not suitable to be granted a casino licence or not suitable to hold a casino licence, the PCRC was established on 5 March 2021 to inquire into: the suitability of **Crown Perth** to continue to hold a casino gaming licence; whether its associated and parent entities were suitable to be concerned in or associated with the organisation and conduct of the gaming operations of a licensed casino; and the adequacy of WA legislation relating to casinos and casino gaming. The PCRC Final Report ('PCRC Report') was tabled in Parliament on 24 March 2022.

The PCRC found that Crown Perth was not a suitable entity to operate a casino in Western Australia and that its associated and parent entities were not suitable to be concerned in or associated with the organisation and conduct of the gaming operations of a licensed casino.[xlvi]

The PCRC Report set out 59 formal recommendations relating to aspects of Crown Perth's corporate structure and governance, Western Australia's regulatory framework, and the conduct and organisation of gaming at Perth Casino.

[8] *TAB (Disposal) Act 2019*.

Relevantly, the PCRC found that the legislation by which the Perth Casino is regulated is not-fit-for purpose and requires replacement with a modern regulatory framework.

The PCRC concluded that:

> *'The regulatory framework is anachronistic in that it is nearly 40 years old and was built on earlier forms of the same framework which were developed without the experience or understanding of modern casino gaming operations and the risks which they pose to the public. It was flawed from conception in that it failed to identify the legislative objectives of casino regulation and to clearly express the associated duties and powers of the regulator to meet those objectives.*[xlvii]
>
> *'…In addition to the legislative model being obsolete, there are provisions in it which are particularly anachronistic or which are absent, even though they are regarded by many other jurisdictions as essential to modern casino regulation.*
>
> *If these individual deficiencies were the cause of the regulatory failures identified by the PCRC they could be rectified individually. However, in the PCRC's view that is not possible because they are only parts of the broad areas of deficiency in the regulatory framework.'*[9]

The PCRC acknowledged that reaching the final outcomes for all of the recommended regulatory reforms would take some time and that, as a matter of practical reality, the existing regulatory arrangements would need to remain in place during the transition period.

Since the release of the PCRC Report, the WA Government has made legislative amendments to address immediate and urgent matters arising from the PCRC (summarised in Background above).

Commonwealth House of Representatives Standing Committee on Social Policy and Legal Affairs: Inquiry into online gambling and its impacts on those experiencing gambling harm

Online gambling is regulated under the Commonwealth *Interactive Gambling Act 2001* by the Australian Communications and Media Authority ('**ACMA**') and, in WA, by the GWC under the Betting Control Act, GWC Act and RWWA Act.

In 2022-23, the House of Representatives Standing Committee on Social Policy and Legal Affairs undertook an inquiry into online gambling and its impacts on those experiencing gambling harm.

At the conclusion of its inquiry, the Committee made 31 recommendations that apply a public health lens to online gambling in order to reduce harm, including:

- a phased, comprehensive ban on all gambling advertising on all media over a three-year period

[9] PCRC (2022), *Final Report*, p.769, par 28-29.

- national regulation, under which the Commonwealth would be responsible for all regulation and licencing of online gambling, but allow the states and territories to continue to levy point of consumption taxes on online gambling
- a statutory 'duty of care' owed by online wagering service providers to their customers.[xlviii]

The Australian Government is yet to provide a formal response to the Committee's recommendations.

Relevant gambling legislation

The primary and subsidiary legislation regulating gambling and gambling-related activity that currently applies in Western Australian is listed below.

WA gambling legislation

- *Betting Control Act 1954;* Betting Control Regulations 1978
- *Casino (Burswood Island) Agreement Act 1985*
- *Casino Control Act 1984;* Casino Control Regulations 1999; Casino Control (Burswood Island) (Licensing of Employees) Regulations 1985
- *Gaming and Wagering Commission Act 1987;* Gaming and Wagering Commission Regulations 1988
- *Lotteries Commission Act 1990*; Lotteries Commission Regulations 1991; Lotteries Commission (Authorised Lotteries) Rules 2016; Lotteries Commission (Policy Instruments) Regulations 2010; Lotteries Commission (Designated Authorities) Regulations 1998; Lotteries Commission (Instant Lottery) Rules 1996
- *Racing and Wagering Western Australia Act 2003;* Racing and Wagering Western Australia Regulations 2003; Rules of Wagering 2005
- *TAB (Disposal) Act 2019*

WA gambling tax/levy legislation

- *Betting Tax Assessment Act 2018*
- *Gaming and Wagering Commission (Continuing Lotteries Levy) Act 2000;* Gaming and Wagering Commission (Continuing Lotteries Levy) Regulations 2000
- *Racing Bets Levy Act 2009;* Racing Bets Levy Regulations 2009

Commonwealth legislation

- *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*
- *Broadcasting Services Act 1992*
- *Interactive Gambling Act 2001*
- *Spam Act 2003*

Why is reform necessary?

As outlined above, the evolution of gambling regulation in Western Australia has been driven by successive royal commissions and inquiries, many of which have resulted in new or amended legislation to address, or partially address, their findings and recommendations.

This piecemeal, reactive approach to gambling regulation has resulted in a patchwork of legislation and unclear, overlapping responsibilities for both industry and regulators. As identified by both a 1998 National Competition Policy Legislative Review[10] and the PCRC,[11] the current regulatory framework is fundamentally deficient in that fails to identify its overarching objectives.

The social, political, economic, technological and regulatory environment has changed significantly since the current gambling laws were introduced up to 71 years ago.

Total expenditure on gambling in Western Australia in 2022-23 was over $1.95 billion.[12] While significant in its own right, this amount is almost fifty times more than Western Australians spent on gambling when recording began in 1975, a full 21 years after the Betting Control Act was enacted. It also constitutes a 16.5-fold increase from overall gambling expenditure in 1984, when the Casino Control Act was enacted, and is almost three times the overall expenditure in 2003, when the RWWA Act was passed.[13]

The PCRC made a recommendation, which was supported by the WA Government, that:

> *'The Casino Control Act 1984 (WA) be replaced by a new Act and a revised Gaming and Wagering Commission Act (if required) containing all matters relating to the regulation of licensed casinos in Western Australia and the composition and structure of the regulator'.* [14]

This recommendation, although limited to casino regulation, nonetheless requires reconstitution of the GWC and the consolidation of its duties and powers in one legislative instrument. As it was neither contemplated nor recommended that a new, separate regulator be established solely for casino regulation, these changes cannot be made without considering the GWC's other regulatory roles and responsibilities.

For these reasons, it is not possible to achieve the necessary level of modernisation, flexibility, consistency and cohesion necessary for effective gambling regulation by simply amending the current suite of WA gambling legislation. The historical approach of patching these laws to address matters as they arise has created a framework, spread across

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[10] WA Government, Office of Racing, Gaming and Liquor, *National Competition Policy Legislative Review*, October 1998, accessed 20 August 2025, p.15.
[11] PCRC (2022), *Final Report*, Chapter 5.
[12] Queensland Government Statistician's Office, *Australian gambling statistics, 39th edition 1997–98 to 2022–23*, Queensland Government, September 2024, accessed 20 August 2025.
[13] WA total gambling expenditure: 1975-76 $40.71 million, 1984-85 $117.93 million 2002-2003 $669.70 million; Queensland Government Statistician's Office.
[14] PCRC (2022), *Final Report*, recommendation 14 (with related recommendations 15 and 35).

numerous pieces of legislation, that is disjointed, inconsistent, increasingly anachronistic, and unsustainable.

A full review and reform process to consolidate, modernise and harmonise Western Australia's gambling legislation is therefore both necessary and appropriate.

Purpose of Consultation Paper

This Consultation Paper sets out proposals for a new framework of gambling laws to inform the development of new legislation to regulate gambling in Western Australia, and provides an opportunity for stakeholders, interested parties, and the public to comment on those proposals.

The Department of Local Government, Industry Regulation and Safety ('LGIRS') is particularly interested in:

- the level of support, or otherwise, for the proposals and approaches outlined
- any potentially unforeseen adverse effects of the proposals and approaches outlined
- suggestions for alternative approaches or other improvements to the current laws
- unidentified or underestimated costs of implementation for industry participants.

Reform timeline

It is the WA Government's intention to have a **Bill** for the new legislation drafted and introduced into the WA Parliament in late-2027 or early-2028.

Once the Bill is passed, work will commence to formulate the detailed requirements that will need to be set out in subsidiary legislation, including reviewing and replacing almost all of the current regulations. Targeted consultation will be undertaken to support the drafting of regulations and other supporting laws.

Industry will be provided with a transition period to adjust to, and prepare to comply with, the new legislation. Leading up to, and during, this period, LGIRS and the GWC will prepare to implement and operationalise the new legislation, including by developing new forms, guides, procedures and systems.

It is therefore anticipated that the new legislation is likely to be implemented around **1 July 2030**, subject to the Bill progressing as a high priority through, and being passed by, both Houses of Parliament, and regulations being drafted as a high priority.

What's not included?

This Consultation Paper focuses on matters that involve a significant change or regulatory impact (cost, impact on rights/access, etc.). It does not discuss exhaustively all matters that will be relevant to the reformed regulatory framework. In particular, it excludes topics that do not require broad consultation such as:

- administrative matters like special purpose accounts, delegation and appointment powers of the Minister and regulator, records management, confidentiality/information sharing
- matters that are most appropriately considered by the Minister and legislature, such as the establishment and administration of the statutory authority and prescribed penalties.

A number of other matters are not being considered as part of the review and reform or are not within the scope of this consultation for other reasons. These matters are set out below.

State Lottery

The Lotteries Commission ('Lotterywest') administers the operation of the state lottery in Western Australia under the *Lotteries Commission Act 1990* ('Lotteries Commission Act') in the Premier of Western Australia's legislative portfolio. The Lotteries Commission Act governs the conduct, promotion, organisation, management, and operation of lotteries, games of lotto, and soccer football pools in Western Australia.

Except for some potentially applicable harm minimisation elements, the scope of this reform does not extend to the state lottery.

The new legislation will remain consistent with the existing regime for state lottery, in that it is excluded from the current suite of gambling legislation administered under the Minister for Racing and Gaming's portfolio.

Continuing prohibition on Electronic Gaming Machines outside of Perth Casino

The PCRC raised concerns about gambling-related harm associated with electronic gaming machines (**EGM**s). In response, the WA Government reaffirmed its strict stance that there will be no weakening of its prohibition on EGMs:

> *'With respect to the Royal Commission's findings on [gambling]-related harm, the Government has reiterated its policy that [poker machines] are not allowed and will not be allowed in Western Australia, and electronic gaming machines will not be allowed outside of Burswood Casino. There will be no weakening of this necessary ban.'*[15]

[15] Department of Premier and Cabinet (2023), *Western Australian Government Response to the Perth Casino Royal Commission*, WA Government, accessed 20 August 2025, p.3.

In the context of a wholesale review of the State's gambling legislation, a total prohibition on EGMs in WA is not being considered for the reasons set out below:

- EGMs are only permitted in WA's single licensed casino, not in the broader community
- EGM revenue funds the Burswood Park Board, allowing it to perform its role of improving, enhancing and adapting Burswood Park for public recreation, health and enjoyment[16]
- EGMs will continue to require approval by the GWC and National Standards, including that the requirements of the WA Appendix must be met in order for approval to be given.

It is also proposed that the increased EGM controls (for example, carded play and mandatory, binding loss limits) arising from the findings of the PCRC and imposed on Crown Casino through the GWC's Direction power will be incorporated into the new legislation.

These factors, together with other proposed statutory harm reduction measures, are considered to provide appropriate mitigation for the risks of harm posed by EGMs.

For the avoidance of doubt, the new legislation will be drafted to continue the unequivocal prohibition of the possession, placement or use of electronic gaming machines in Western Australia anywhere other than at a licensed casino which is specifically authorised to provide their use, under strict conditions.

Thoroughbred, harness and greyhound racing

The current RWWA Act:

- establishes RWWA as the controlling authority for thoroughbred, harness, and greyhound racing in Western Australia
- authorises RWWA to conduct wagering, including totalisator and fixed odds betting, and
- provides for the integrity, viability, and development of the racing industry across metropolitan and regional areas.

RWWA has a dual role as the operator of the WA TAB and Western Australia's principal racing authority. The new legislation will cover wagering regulation, which is currently dealt with under the RWWA Act, but the scope of this reform does not otherwise extend to thoroughbred, harness or greyhound racing, or the responsibilities of RWWA as the principal racing authority in WA.

[16] Burswood Park Board (2024), *Burswood Park Board Information Statement*, WA Government, accessed 20 August 2025, p.3.

State Agreement

The Casino Control Act currently provides the legislative foundation for the State to enter into a casino complex agreement for the development of a casino and its operation pursuant to an authorisation.

The State Agreement is scheduled to the CBIA Act. It is a contract between the WA Government and the casino licensee, ratified by Parliament to give it the force of law.

To ensure that the costs, including an uplifted program of regulatory activity for casino operations resulting from the findings and recommendations of the PCRC, are recovered from the casino licensee, the *Casino (Burswood Island) Agreement Amendment Act 2023* ratified amendments to the State Agreement to increase the casino gaming licence fee, which is the fee payable by the casino licensee for the costs of administering the Casino Control Act and regulating the casino.

The new legislation will incorporate the relevant provisions specific to the regulation of gambling currently contained in the CBIA Act, but the scope of this reform does not extend to reviewing or amending the State Agreement.

Levy Acts

In Western Australia, three primary Acts impose financial levies on gambling activities:

- Betting Tax Assessment Act 2018
- *Racing Bets Levy Act 2009*
- *Gaming and Wagering Commission (Continuing Lotteries Levy) Act 2000*

The *Betting Tax Act 2018* establishes a point of consumption tax on betting operators who accept bets from customers based in Western Australia, regardless of where the operator is based. The *Racing Bets Levy Act 2009* requires wagering operators who accept bets on Western Australian races to pay a levy based on their turnover/gross revenue, with the funds directed to support the local racing industry. The *Gaming and Wagering Commission (Continuing Lotteries Levy) Act 2000* requires licensed suppliers to pay a levy on the sale of continuing lottery tickets, also known as bingo tickets, beer tickets or break open tickets.

These Acts are separate from other gambling legislation because, under s.46(7) of the *Constitution Acts Amendment Act 1899*, Bills imposing taxation must deal only with the imposition of the tax.

While the levies relate to gambling activity, the Acts themselves are not within the scope of the current gambling legislation review and reform process.

Ability to create and maintain gambling laws that are consistent with other jurisdictions

It is understood that it is desirable for laws to be consistent across jurisdictions to facilitate harmony and reduce the regulatory burden on gambling service providers who operate across two or more states/territories.

However, as the regulation of gambling is not a legislative power of the Commonwealth Parliament granted by section 51 of the *Australian Constitution*, the parliaments (or legislative assemblies) of each state and territory can make their own laws with respect to gambling. Each state and territory can create, update or abolish any of these laws at any time, at their own discretion.

The only way for gambling laws to be (and remain) consistent across Australia, would be for Australian states and territories to refer their powers to regulate gambling to the Commonwealth in accordance with section 51(xxxvi) of the *Australian Constitution*. LGIRS are not aware of any intention of states and territories to refer this power.

While the review and reform process will take the laws of other Australian states and territories into consideration and seek to achieve initial consistency wherever appropriate, it must be acknowledged that:

- any uniformity will be a 'point in time' consistency, and
- any inconsistencies (initially or over time) resulting from differences in how Western Australia's Parliament chooses to regulate gambling will need to be understood and managed by providers who operate across multiple jurisdictions.

Matters regulated by Commonwealth legislation

Section 109 of the Australian Constitution provides that:

> *'When a law of a State is inconsistent with a law of the Commonwealth, the latter shall prevail, and the former shall, to the extent of the inconsistency, be invalid.'*

This means that the Australian Constitution establishes the doctrine of federal supremacy in Australia. It ensures that if a valid Commonwealth law conflicts with a valid state law, the Commonwealth law overrides the state law to the extent of the inconsistency.

Accordingly, the gambling legislation review and reform cannot result in Western Australian laws that are inconsistent with Commonwealth legislation on gambling and related matters, including:

- online gambling, regulated by the Interactive Gambling Act and enforced by ACMA
- AML/CTF, regulated by the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth) and enforced by the Australian Transaction Reports and Analysis Centre ('AUSTRAC')
- gambling advertising, regulated under the *Broadcasting Services Act 1992* (Cth) and the *Australian Communications and Media Authority Act 2005* (Cth) and enforced by ACMA
- online 'video' gaming, regulated under the *Online Safety Act 2021* (Cth), enforced by the eSafety Commissioner,[17] and classified under the *Classification (Publications,*

[17] eSafety Commissioner (2025), *Gambling themes in online games*, Australian Government, accessed 20 August 2025.

Films and Computer Games) Act 1995 (Cth), enforced by the Classification Board and the Classification Review Board.[18]

However, this Consultation Paper proposes the introduction of laws to complement and supplement federal legislation on gambling-related matters.

See also Gambling Advertising, AML/CTF, WA Regulation of Interstate Gambling Service Providers

Funding

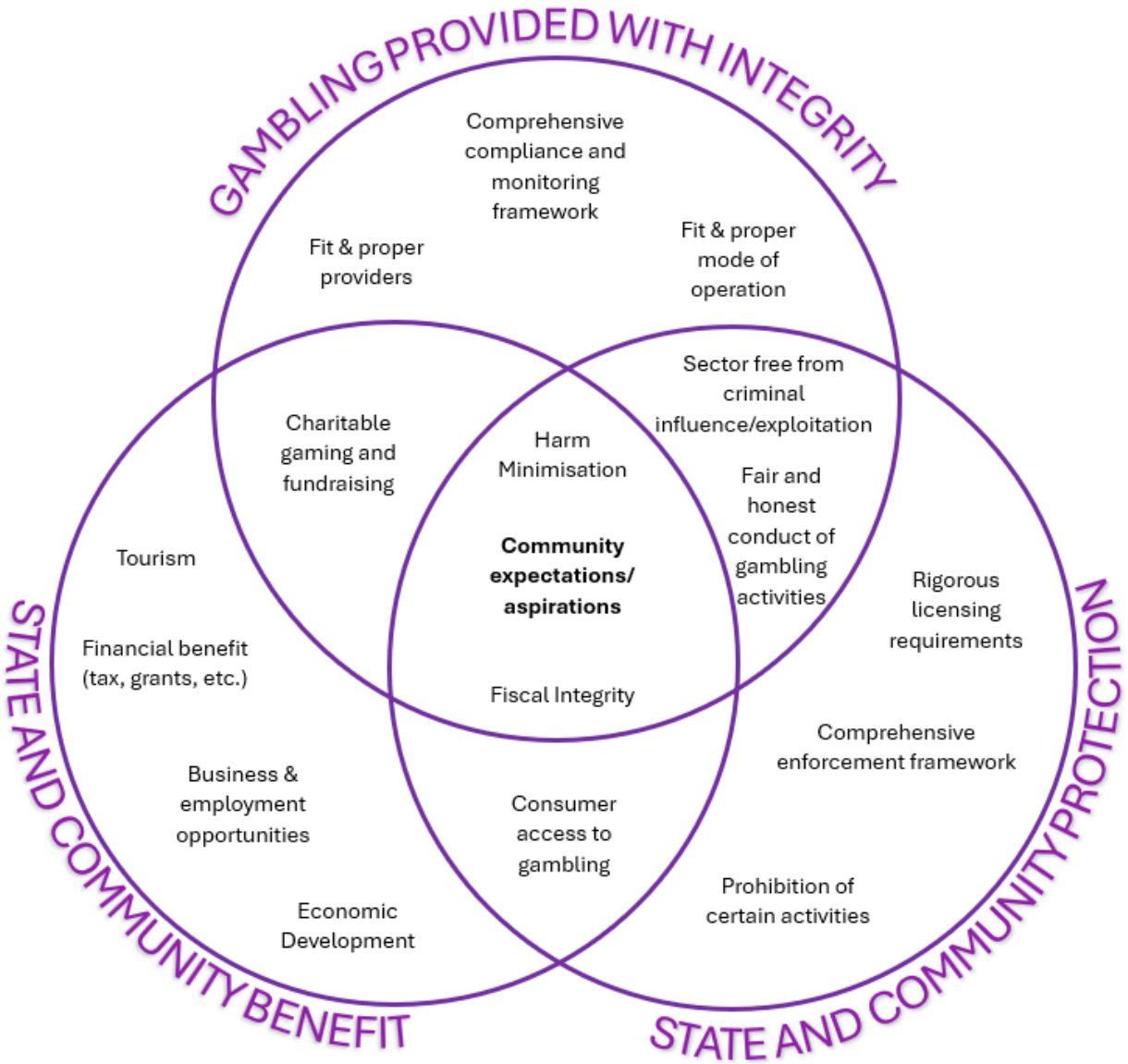
It is general WA Government policy that statutory fees and charges should fully recover the cost of providing related services. The costs of gambling regulation will be funded under the new legislation by:

- cost recovery through application, licence and supervisory fees, similarly to the current legislative framework
- interest accrued on moneys lawfully received by, made available to, or payable to the regulator
- moneys from time to time appropriated by Parliament.

[18] Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts, *Australian Classification*, Australian Government, accessed 20 August 2025.

Framework

Focussing on three key principles of **sector integrity, state and community benefit,** and **state and community protection**, the State's gambling legislation should be future-focused; establish an acceptable level of risk in the balance between consumer freedom and public welfare; support lawful operators with a view to maximise vitality, tourism, employment and community benefit; put in controls to protect consumers and, in particular, minors and those vulnerable to gambling disorder; mitigate potential harms; and have appropriate sanctions to deter and punish offenders.



It is acknowledged that some harms are inevitable – even a total ban on all gambling would come with risks, because gamblers would seek out international or black-market alternatives where no protections exist.

It is also understood that any laws that are introduced to regulate gambling must be sufficiently flexible to keep in touch with technological advancement, the speed of innovation and the evolving nature of digital trends and product offerings.

This Consultation Paper will focus on setting out:

- Which elements of the current regulatory framework are being retained, subject to modernisation and application of best practice regulatory principles.
- What is being introduced or substantially changed.
- What should potentially be removed or reduced.
- Transitional and consequential requirements resulting from the above.

Regulatory design principles

The reforms will have particular consideration of the following Department of Treasury and Finance ('Treasury') Better Regulation Program regulatory design principles[19]:

- Regulation must be focused on the problem and how it can achieve its intended policy objectives with minimal side-effects.
- Risk-based regulation enables a focus on issues involving greatest concern (for example, risk of harm), while applying a light (or zero) regulatory touch for issues that are low risk.
- The regulatory approach should be applied consistently across regulated parties with similar circumstances.
- Regulation should be consistent with other policies, laws and agreements affecting regulated parties. It should also be designed to minimise overlaps and competing or conflicting requirements.

Structure of new legislation

As set out in the 'Why is reform necessary?' section above, WA's gambling legislation is a disjointed patchwork of statutes created in response to individual issues that have emerged over time. This reform intends to consolidate, modernise and harmonise the laws into a single, cohesive gambling Act to:

- make the legislation easier for the regulator, regulated entities and the public to understand and navigate
- remove duplications and inconsistencies
- make the purpose and intended operation of the legislation clear

[19] Treasury (2023), *Better Regulation Program Agency Information Paper*; WA Government, accessed 20 August 2025, pp.10-12.

- set out the duties and powers of the regulator
- set out clear, consistent powers, and the exercise of those powers for the regulator and any statutory office holders
- provide all relevant statutory definitions in a single instrument
- deal with matters of territoriality and constitutionality
- incorporate relevant (proclaimed and unproclaimed) sections of *TAB (Disposal) Act 2019* ('TAB Disposal Act').

The structure will likely create the broad and overarching elements of the legislation (objects, terms, establishing the regulator and setting out their powers and duties, financial and administrative matters, establishing any statutory officers and committees/advisory or other bodies, compliance and enforcement framework, review/appeal mechanisms, harm minimisation, heads of power for regulations and codes of practice, etc.) and have separate parts to deal with specific matters such as licensing/approvals, community gaming, casino regulation, and wagering regulation.

Detailed requirements will be set out in subsidiary legislation (for example, regulations). Targeted consultation will be undertaken to support the drafting of subsidiary instruments.

Note: For the sake of simplicity, and to avoid any predetermination of the future structure or terminology, the term 'authorisation' is used throughout this Consultation Paper to refer to any (past or future) type of regulatory authorisation such as a licence, authorisation, permit, certification, or approval.

Consistent approach to regulation across gambling sectors

The PCRC made a number of findings about the Perth Casino that are equally applicable to other gambling services and activities. The PCRC Recommendations relating to regulatory change were supported or supported in principal in the WA Government Response 2023.

This Consultation Paper will not revisit the matters identified by the Royal Commission, as that process explored the issues, invited and considered submissions, and set out the conclusions and rationale in the PCRC Report.

The casino, gaming and wagering sectors in Western Australia are similar in both scale and turnover. Consequently, any findings and recommendations of the PCRC related to legislative change[20] will be considered within the broader context of the comprehensive gambling legislation review. It should be assumed that recommendations – particularly those addressing gambling harm, criminal activity, public interest, and anti-money laundering/counter-terrorism financing (AML/CTF) – that are not specific to the Perth Casino, will be applied across the wider gambling landscape under the new legislation.

[20] PCRC formal recommendations provided at Attachment 1 – PCRC recommendations requiring legislative change

Reforming Western Australia's gambling legislation presents an opportunity to apply consistent regulatory standards across all gambling activities that are comparable in terms of function or risk. Consistently applied regulation would promote fairness and equity within the WA gambling sector, ensuring that all major gambling operators are subject to similar legislative requirements and that consumers receive equal protection regardless of the gambling platform they use.

Reform initiatives

Section 1. Objects of legislation

The current suite of WA gambling legislation does not contain any 'objects' clauses. Objects are an important and valuable part of legislation, which outline the overall and intended purpose of the legislation and can be used to resolve uncertainty and ambiguity.

Clear objects guide decision-makers during the administration and practical application of the legislation. They provide a metaphorical 'north star' to assist the reader to understand the detailed provisions of the legislation and aid statutory interpretation.

The *Interpretation Act 1984* (WA) provides:

> ***18. Purpose or object of written law, use of in interpretation***
> *In the interpretation of a provision of a written law, a construction that would promote the purpose or object underlying the written law (whether that purpose or object is expressly stated in the written law or not) shall be preferred to a construction that would not promote that purpose or object.*

The objects of the legislation are different from the 'powers' and 'duties' of the regulator, which will be provided for separately and will, as well as establishing what the regulator can and must do for the proper administration of the legislative regime, reflect the established objects.

The proposed objects for the new legislation are:

1. to facilitate a framework that provides public confidence and trust in the provision of gambling services and meets the social expectations for appropriate protections for gamblers and the community by providing:
   a) appropriate controls for, and enforcement of, the responsible and lawful conduct of gambling, and of the persons directly or indirectly involved in the provision, promotion and support of gambling services
   b) for the detection and deterrence of criminal influence or exploitation in, or resulting from, the provision of gambling services
   c) protections to minimise the potential, prevalence and severity of harm associated with gambling, particularly for vulnerable persons and affected others
   d) appropriate controls for gambling operations to be conducted with fairness and integrity

2. to provide for the State to balance the development and maintenance, in the public interest, of a responsible and fair gambling industry that provides economic, employment, tourism and cultural benefits to the State, recognising the positive and negative impacts of gambling on communities.
3. to provide a framework for adaptive and responsive regulation of future gambling and currency innovations.

All persons having duties, powers or functions under the legislation will be required to have due regard to the objects when exercising those functions.

Question 1. Objects of Legislation

A. Do you agree with the objects for the new legislation proposed above?

B. Are there other overarching principles that the new legislation should capture that are not represented? If so, what are they and why are they necessary/important?

C. Should any of the proposed objects be altered or removed? If so, which ones and why?

Section 2. Review of administrative decisions

Except in a few specific cases, the current legislation does not provide a process for natural justice to applicants or affected/aggrieved persons by way of administrative review or appeal.

This means that the only natural justice pathway available is an application to the Supreme Court for a review of the decision, which can be an extremely costly and time-consuming process.

State Administrative Tribunal

It is proposed that the new legislation confers jurisdiction on the State Administrative Tribunal ('SAT'). This will allow a person aggrieved by a reviewable decision to apply to the SAT for a more simple, less expensive, independent review.

Section 9 of the *State Administrative Act 2004* ('SAT Act') sets out the main objectives of SAT, including to:

- achieve the resolution of questions, complaints or disputes, and make or review decisions, fairly and according to the substantial merits of the case, and
- act as speedily and with as little formality and technicality as is practicable and minimise the costs to parties.

The updated legislation would confer jurisdiction on SAT to review administrative decisions made by the GWC such as:

- refusal of an application for an authorisation, or
- imposition of a restrictive condition on an authorisation, or

- finding that a relevant person is not, or is no longer suitable to be associated with an operator, or
- disciplinary action.

SAT jurisdiction

The SAT is established under the SAT Act as an accessible 'one-stop shop' that can resolve disputes quickly, with minimal formality and costs, and utilise tribunal members who have the appropriate experience and expertise.

It is not a court, but an independent body consisting of judicial members, legal members and ordinary members, that makes and reviews a wide range of administrative decisions from more than 150 pieces of enabling legislation.

For more information about SAT and its operations, visit:
https://www.sat.justice.wa.gov.au/

Costs

It is acknowledged that conferral to SAT for the review of administrative decisions may impose some costs. However, as the SAT was established by the State specifically to provide this type of accessible, independent, expert review, this approach is still considered the most appropriate mechanism to provide natural justice in administrative decision-making.

Question 2. State Administrative Tribunal

A. Do you have any strong objections to the new legislation establishing the State Administrative Tribunal as the review body for administrative decisions?

B. If so, what are they and what might be better alternative?

Section 3. Comprehensive and flexible compliance and enforcement framework

Background and rationale

While the interim amendments made by the *Gambling Legislation Amendment Act 2024* significantly increased penalty amounts across the range of gambling Acts and expanded the infringement notices framework, the compliance and enforcement frameworks in the current statute remain limited, narrow and inconsistent.

It is intended that the new legislation will establish a diverse, flexible, 'toolkit' of compliance and enforcement options for deterring and punishing breaches of legislation. This toolkit will be available for the regulator to apply across the whole gambling sector, spanning criminal and civil penalties, disciplinary sanctions, cease and desist orders, enforceable undertakings, compensation orders, naming and shaming powers, infringement notices, formal warnings, and education.

Consideration will also be given to penalty frameworks utilised in Commonwealth legislation such as the *Corporations Act 2001* (Cth) and other Australian Securities and Investments Commission ('ASIC')-administered laws. Under these regimes, the maximum pecuniary penalty for a corporation that has contravened a civil penalty provision is the *greatest* of the following three amounts:

- a prescribed penalty amount
- three times the value of the benefit derived from, and the detriment avoided by, the contravention, or
- a percentage of the corporation's annual turnover (prescribed at 10 per cent in the Corporations Act and 30 per cent in the Privacy Act) over a set period, capped at a maximum amount.

The inclusion of models based on 'benefit derived' and 'annual turnover' represents a deliberate legislative shift away from simple, fixed fines towards penalties explicitly designed to have a real and significant economic impact, particularly on large corporations. It ensures that a penalty can be scaled to the size of the contravening entity and the profits of its misconduct, neutralising the financial incentive to break the law.

By providing a broad range of enforcement options harmonised across regulated sectors and designed to ensure that legislative interventions are effective, justified and rights-compatible, a strategic choice of response can be made based on the severity of the offending, the need for general deterrence, the public interest, the strength of the evidence, the need for urgent intervention, and the desired regulatory outcome.

Legislative breaches can be matched with responses that are proportionate to the offending and provide the option for more timely, less costly enforcement action in appropriate circumstances.

Notably:

- Penalties for gambling offences by minors or by community organisations will continue to be kept relatively low, as these are not considered the significant enforcement targets for ensuring that gambling is conducted lawfully in Western Australia.
- The enforcement regime in the new legislation will be supported by an enhanced framework for procedural fairness and rights of review.

Enforcement toolkit

Below is a summary of the various enforcement options.

1. Criminal penalties

Generally reserved for deliberate, high-harm offences such as fraud, predatory behaviour, gross negligence or reckless disregard, or matters related to public safety. Criminal sanctions carry the strongest deterrent effect and require proof beyond reasonable doubt.

Maximum fines and imprisonment terms are prescribed in the legislation for use by Courts in sentencing offenders.

2. Civil penalties

In recent decades, civil penalty provisions have become increasingly common, particularly in federal regulatory law. These provisions are a modern legislative tool designed to enforce compliance with complex regulatory schemes without needing to invoke the full procedural rigour of the criminal law.

This structure is prevalent in major Commonwealth Acts. For example, the *Corporations Act 2001* (Cth) contains numerous duties for company directors (for example, the duty to act with care and diligence) which are designated as civil penalty provisions. A breach does not automatically constitute a crime; rather, it exposes the director to civil penalty proceedings initiated by the ASIC. Similarly, the *Competition and Consumer Act 2010* (Cth*)* prohibits various forms of anti-competitive conduct, with contraventions attracting civil penalties sought by the Australian Competition and Consumer Commission.

While historically more a feature of Commonwealth law, this approach is being adopted in Western Australia for national regulatory schemes, such as the *Work Health and Safety Act 2020* (WA), *Environmental Protection Act 1986* (WA)*, Road Traffic (Administration) Act 2008* (WA) and the *Fair Trading Act* (WA).

Monetary penalties

Statutory maximum penalties are not the 'default' penalty. They are set at an amount that will provide a maximum value for the Courts to assign in the most severe or egregious circumstances, or repeat offending.

Courts exercise their judicial discretion when imposing a penalty on an offender (not exceeding amounts prescribed in the legislation). In arriving at the penalty amount, the Court will consider a number of factors, and be guided by the principles in the Sentencing Act including[1]

- the nature and extent of the contravening conduct,
- the amount of loss or damage caused, the circumstances in which the conduct took place,
- the size of the contravening company,
- the deliberateness of the contraventions and the period over which the offending took place,
- whether the contravention arose out of the conduct of senior management or at a lower level,
- whether the company has a corporate culture conducive to compliance with the Act in question, as evidenced by educational programmes or other corrective measures in response to an acknowledged contravention, and
- whether the company has shown a disposition to co-operate with the authorities in relation to the contravention.

Penalties need to be set in the statute at levels high enough to allow the Court to, in consideration of the relevant factors, impose a penalty that ensures that it is not simply an acceptable cost to the offender of conducting unlawful activity.

Decisions in civil proceedings rest on the balance of probabilities rather than the criminal standard of 'beyond reasonable doubt', enabling regulators to resolve breaches promptly without lengthy criminal trials.

While still punitive, civil sanctions avoid the reputational damage and lifelong records associated with criminal convictions, making them suitable for non-egregious breaches, particularly when swift intervention or lower resource burdens are appropriate.

3. Cease and desist powers

Cease and desist orders are enforcement instruments used to compel individuals or entities to stop engaging in unlawful, harmful, or infringing conduct. While they take a variety of forms in their use across current Commonwealth and WA legislation, under the new gambling legislation they would likely take the form of temporary (interim) directives issued by the regulator.

Non-compliance could result in penalties, prosecution, or civil enforcement.

4. Enforceable undertakings

Voluntary, binding commitments where contraveners agree to specific corrective or preventive measures. Typical undertakings include process and procedure improvements, remediation plans, financial/operational/compliance audits.

Breach of an undertaking triggers automatic recourse to stronger sanctions.

5. Compensation orders

While criminal and civil penalties can be effective deterrent and punishment mechanisms, the fines are payable to the State and do not provide a remedy to victims of non-compliance (financial loss, harm).

Compensation orders empower the Court to require providers found guilty of offending to pay direct restitution to people who have suffered significant harm as a result.

See also Compensation.

6. Naming and shaming

The powers allow the regulator to warn the public about suspected misconduct and prevent further harm by publishing identities and breach details of significant or repeat offenders. This leverages reputational incentives, encouraging compliance through public accountability.

Powers would be guided by a framework, and strict guidelines would govern its use to prevent disproportionate reputational damage.

7. Disciplinary offences and penalties

These are sanctions applicable to authorisation holders and regulated professionals.

Targeted at professional misconduct or breaches by regulated individuals and entities, actions include authorisation suspension, cancellation, or imposing of conditions (for example, additional training, supervision) to maintain sector integrity.

8. Infringement notices

Infringement notices provide a quicker, more cost-effective way to resolve minor breaches without going to court by the payment of a fine, which is usually much lower than what a court would impose. Paying the penalty does not mean the person admits to the offence or that guilt has been legally established.

This mechanism supplements offence and civil penalty provisions to provide an alternative to prosecution for an offence for low-level breaches. Infringements offer swift, cost-effective resolution, signalling regulator intent and prompting immediate corrective action.

Infringeable offences are those that an enforcement officer can easily make an assessment of guilt or innocence rather than complex legal distinctions.

9. Formal warnings

Formal warnings are written advisories for minor or first-time breaches. Warnings notify a regulated entity that it has breached a regulatory requirement outline required remedial steps and the potential for escalated sanctions if non-compliance persists.

10. Education letters

Education letters provide written advice to inform and guide a regulated entity about its obligations under the law or standards.

This is a proactive, non-punitive tool to promote voluntary compliance. Often issued after minor non-compliance is detected, these letters focus on clarifying expectations, providing resources, and encouraging improvement.

Appointment of supervisor/administrator

It is also proposed that the compliance framework provide for a supervisor or administrator to be appointed where there are reasonable grounds for believing that an operator is for any reason incapable of properly conducting the business, or is not conducting it in accordance with the legislation, for the purposes of either —

- operating the business until such time as the matter is remediated or the operations are cancelled by the regulator or otherwise terminated, or
- ‘winding up’ the operations by concluding or disposing of matters commenced but not concluded on behalf of clients of the business and, where necessary, for the purpose of disposing of, or dealing with, documents relevant to those matters, and, in the case of the business of a deceased person, carrying on the business until it can otherwise be dealt with according to law.

Question 3. Enforcement Framework

A. Do you agree with the diverse and flexible compliance and enforcement options for the new legislation proposed above?

B. Are there other compliance or enforcement options that the new legislation should capture that are not represented? If so, what are they and why are they necessary/important?

C. Should any of the proposed enforcement options be altered or removed? If so, which ones and why?

Section 4. Authorisations

A single, cohesive gambling Act creates the ability for the consolidation of the requirements and processes for similar applications and authorisations across the range of gambling activities. This will create a consistent, streamlined, and simplified framework for applicants, licensees, operators and decision-makers.

For example, the legislation could have a single set of provisions for a group/category of authorisation types which set out:

- the requirements for completing and submitting new applications
- the requirements for completing and submitting renewal applications
- the ability to prescribe particular requirements in relation to specific authorisation types
- the considerations for assessment and determination of applications
- the regulator's considerations for granting or refusing applications
- the ability to impose and modify conditions by the regulator or on request from the licensee
- natural justice (right of reply and right of review) provisions (see also Review of administrative decisions section).

Authorisations not being considered for substantial change

Subject to standardising the application processes, fee structures and, where appropriate, requirements as set out above, it is proposed that the authorisations that fall under the current statutory regime are brought into the new legislation without substantial change.

Current authorisation types that do not appear in the list below are discussed elsewhere in this Consultation Paper, with a discussion of issues and changes that are being proposed.

Community Gaming

1. Gaming Functions
2. Gaming Equipment
3. Video Lottery Terminals

Wagering

4. Bookmakers
5. Bookmaker Managers
6. Bookmaker Employees
7. RWWA Directors
8. RWWA Key Employees

Casino

9. Casino Licence – see also Casino control.

Question 4. Authorisations not being considered for substantial change

A. Do you believe any of the authorisation types listed above should be considered for substantial change? If so, which one/s?

B. What changes do you believe are required and why?

Section 5. Negative licensing and exempted activity

Negative licensing is a 'light-handed' form of regulation which differs from the traditional forms of authorisation-style regulation in that it provides for the activity to be conducted without first being assessed, or receiving an authorisation, by the regulator, as long as it complies with specified conditions/legislative requirements that set minimum standards and/or relate to unacceptable or unsatisfactory conduct.

Trade promotion lotteries are currently regulated under a similar type of regulatory model in Western Australia.

Benefits of negative licensing

Negative licensing creates a streamlined, low-cost framework for frictionless access to gambling activities that are low-risk and lawfully conducted.

This is especially helpful to remove red-tape for organisations who are administered by volunteers and/or remove permit costs for organisations who are raising small amounts of funds for charity.

Risks of negative licensing

Negative licensing still results in some monitoring, complaints handling, investigations and enforcement actions that are not off-set by application/annual fee.

However, the types of activities which will likely qualify for negative licensing are community gaming authorisations, which currently achieve low cost recovery, most of which is the cost of the initial assessment for the permit approval. Therefore, it is not anticipated that the overall regulatory cost will increase in any significant way.

Proposal

It is proposed that the new legislation provide for gambling products, services or activities which are assessed as being negligible or sufficiently low risk to be either:

a) exempted (for example, as 'social gambling' currently is), or

b) negatively licensed.

It is envisaged that this would be drafted as a head of power in the legislation to allow for products, services and activities to be exempted or negatively licensed as prescribed in regulations to allow flexibility in the framework for currently known activities, as well as to provide for future activities as the industry changes and evolves over time.

The negative licensing model would:

- specify requirements and conditions under which a particular gambling product, service or activity must be conducted in order to be lawful, and
- provide sanctions for unlawful or unsatisfactory conduct, including the ability for the regulator to prohibit non-compliant operators from conducting the activity in Western Australia.

The currently regulated activities identified as sufficiently low risk, and being proposed for exemption or negative licensing in the new legislation, are listed below to give stakeholders and the public an opportunity to provide input and feedback before a decision is made.

1. Standard lotteries that are categorised as 'low risk' – see 'Categories' for standard lotteries (raffles)
2. Standard lottery of the kind generally known or described as a 'calcutta' issued to a race club or an approved club.
3. Two-up on Anzac Day, conducted by RSLs.
4. Senior citizens' bingo.
5. Approvals for the use of premises for community gaming.

Question 5. Negative licensing and exemptions

A. Do you have any concerns about, or objections to, the gambling products, services or activities listed above becoming negatively licensed? If so, what are your particular concerns/objections?

B. Are there any other gambling products, services or activities that you think should be negatively licensed? If so, which ones and why?

C. Are there any gambling products, services or activities that you think should be exempt from the new gambling legislation? If so, which ones and why?

Section 6. Third party gambling service providers

In the context of the gambling sector, '**intermediary**' or '**third-party**' service providers are entities that facilitate gambling transactions or services between other parties, or provide **ancillary** support services (collectively third-party service providers ('TPSPs')), while not necessarily directly participating in the gambling activity itself.

The current legislation regulates some intermediaries, for example gaming equipment suppliers and gaming operators (persons assisting the conduct of permitted gaming by operating or handling any gaming equipment or instruments of gaming or, in the case of bingo, by calling the card).

Since the introduction of the current suite of gambling legislation in WA, a range of new businesses whose operations have not historically been captured by the regulatory regime have established themselves to fill gaps in the market for the provision of intermediary or ancillary services to licensed operators.

It is acknowledged that TPSPs can provide valuable and beneficial services, including specialised knowledge and expertise, efficiency, operational support and scalability. However, the absence of regulation creates risks for gambling providers and consumers.

For example, TPSPs can hold large amounts of consumers' money, personal identity and payment information, create opportunities for unlawful conduct, and can potentially have a lot of influence on the operation and integrity of the gambling activity.

International Commission Business

Generally speaking, international commission business (colloquially referred to as 'junkets') refers to a business arrangement where a third-party operator - known as a junket promoter - organises travel, accommodation, and gambling activities for high-value clients, (often referred to as 'VIP players' or 'high rollers').

The PCRC Report refers extensively to junkets and how they operate, most relevantly in Chapter Six.

The PCRC's observations and findings in relation to junkets, premium and privileged players can be summarised as:

- Junkets are a well-recognised part of the international casino landscape and the emergence of premium and privileged programmes in the casino market has been an important development in many casinos around the world.
- In general terms, junkets typically involve an arrangement between a casino and a junket operator for a group of players to visit the casino and participate in casino gaming.
- In return for bringing the junket players to the casino, the casino generally pays the junket operator a commission based on the collective gambling activity of the players.
- The distinction between VIP patrons and Premium/Privileged patrons is that VIPs place large bets through junket operators as an intermediary, while Premium/Privileged players deal with the casino directly.
- Junket operations are a focus for regulation as organised crime groups have been reported to be involved in the junket industry for many years and junkets are vulnerable to the risks of criminal infiltration and money laundering.
- Junkets typically involve the movement of large sums of money across jurisdictions.
- They involve multiple parties, such that the source of ownership of funds ultimately used in the casino is obscured.
- The extension of credit by the casino is often a feature of junkets and has been permitted at the Perth Casino for International Commission Business players since 2005.
- Junkets are a strategic risk to the attainment of the objectives of casino regulation.

The PCRC recommended[21] that the new legislation 'prohibit junkets, unless authorised and individually licensed by the regulator.' This recommendation was supported by the State Government in their response to the PCRC Report.

Junkets were one of the three broad risks relating to casinos and casino gaming identified in the Bergin Inquiry (with the other two being money laundering and criminal infiltration).

In 2009, the Financial Action Task Force ('FATF'), in association with the Asia Pacific Group on Money Laundering ('APG'), published a report on the *Vulnerabilities of Casinos and Gaming Sector*[22] ('FATF Report'). An excerpt of the vulnerabilities identified in that report, with particular reference to junkets is appended at Attachment 2 – Excerpts from Vulnerabilities of Casinos and Gaming Sector (FATF Report).

[21] PCRC (2022), *Final Report*, recommendation 15(m).
[22] FATF, APG on ML (2009), *Vulnerabilities of Casinos and Gaming Sector*, accessed 20 August 2025.

The Bergin Inquiry and the FATF Report identified the following as the significant risks of casino operations – and international business, or 'junkets,' specifically:

- money laundering ('ML') through:
  - use of 'Casino Value Instruments' (cash/casino chips/TITO/gaming machine credits/cashier's orders/casino cheques/gift certificates/chip purchase vouchers/casino reward cards)
  - structuring/refining
  - use of casino accounts (credit accounts, markers, foreign holding accounts)/facilities
  - intentional losses
  - currency exchange
  - employee complicity
  - credit cards/debit cards
  - false documents
- terrorism funding ('TF'), and
- criminal interest in casinos – players and criminal infiltration.

The FATF Report specifically provided the following vulnerabilities with junkets:

- Over-reliance on junket operators, especially in markets with resident populations that are too small to normally support casinos can pose a heightened money laundering risk. In these instances, casinos can become overly dependent on junket operators for business, a potential misuse of these services.
- In some jurisdictions, a casino may enter into a contractual agreement with a junket operator to rent a private room within a casino and in some situations, it is the junket operator, not the casino, which monitors player activity and issues and collects credit.
- Junket operators that provide premium players may exert commercial pressures on casinos, which may result in reducing scrutiny of individual spending patterns, or unduly influence or exercise control over licensed casino operations.
- Junket operators may engage in lending or the facilitation of lending to players outside casinos' knowledge.
- In some jurisdictions, junket operators are allowed to 'pool' and therefore obscure the spending of individual customers, thus preventing casinos from making any assessment of customers' spending patterns.
- In certain jurisdictions, licensed junket operators act as fronts for junket operators in another country. The front operators supply players to a casino through a casino's licensed junket companies which may not qualify for licensure in the country where the players will be gambling. Such unlicensed sub-junket operators can act as unlicensed collectors of credit and may have ties to organised crime networks.

The FATF Report stated that 'All the above issues pose serious risks, and can lead a casino to engage in informal arrangements with junket operators that are inconsistent with risk-based AML/CFT policies, procedures and internal controls as well as hinder authorities' ability to recognize [sic] the level of risk that certain operators pose.'

AUSTRAC has also flagged junkets as high-risk for money laundering and terrorism financing.

Current legislation

Section 25A[23] of the Casino Control Act currently provides for the making of regulations for, or with respect to, regulating or prohibiting:

(a) the conduct of junkets, and

(b) the offering to persons of inducements, whether in the form of rebates or commissions or otherwise, to conduct or participate in junkets.

Until it was repealed in June 2010, Part 3 of the Casino Control Regulations 1999 made provisions for the GWC to approve junket operators/representatives, and for offences with respect to the conduct of junkets.

No regulations are currently made under section 25A in the Casino Control Regulations 1999 or the Casino Control (Burswood Island) (Licensing of Employees) Regulations 1985.

By virtue of a Direction issued under section 24 of the Casino Control Act by the GWC on 23 February 2021, the Perth Casino is currently prohibited from participating in the conduct of Junkets, Premium Player Activity or Privileged Player Activity.

Other jurisdictions

State/Territory	Junkets in Current Legislation	Notes
Australian Capital Territory	✅ Permitted	s75(5) and s144 of the ACT *Casino Control Act 2006*
New South Wales	❌ Prohibited	s76B of the NSW *Casino Control Act 1992* No 15
Northern Territory	✅ Permitted	via a Casino Operator's Agreement entered into under s17 of the NT *Gaming Control Act 1993*
Queensland	✅ Permitted	s85A of Queensland *Casino Control Act 1982*
South Australia	✅ Permitted	s16(1a) of the *Casino Act 1997*
Tasmania	✅ Permitted	s104 of the Tasmanian *Gaming Control Act 1993*
Victoria	❌ Prohibited	s81AAD of the Victorian *Casino Control Act 1991*
Western Australia	✅ Permitted	s25A of Casino Control Act (currently prohibited by Direction issued under s24)

[23] commenced on 5 August 1998.

Options

Option 1: Replicate the current head of power under section 25A of the Casino Control Act in the new legislation.

This would continue to permit junkets by default, but provide for regulations to be made with respect to regulating or prohibiting —

a) the conduct of junkets, and

b) the offering to persons of inducements, whether in the form of rebates or commissions or otherwise, to conduct or participate in junkets.

A full excerpt of section 25A is appended in Attachment 3 – Casino Control Act s.25A for ease of reference.

Option 2: Implement the PCRC recommendation to draft new legislation to prohibit junkets, unless authorised and individually licensed by the regulator.

This would prohibit junkets by default but permit them if the operator is the holder of an authorisation under the gambling legislation.

This is the option currently preferred in consideration of:

- the legislation being designed to be future-focussed and flexible
- junkets being a well-recognised business practice of casinos world-wide
- casino tax being payable on International Commission Business and junket activity – providing a framework for junkets to be operated and utilised by *bona fide* persons will result in tax income to the State, as well as potential secondary benefits like attracting tourism to the State.

A licensing and regulatory framework for junkets would broadly fit under the TPSP framework but would, additionally:

- take into account the findings and recommendations of the PCRC Report
- identify the vulnerabilities, harms and potential risks, of international commission business, VIP/high value players, junkets, premium and privileged player activity in the Western Australian casino context
- provide clear controls to address these vulnerabilities, harms and potential risks
- specify whether those controls will be the responsibility of the GWC or the casino licensee to administer
- set out requirements for exercising the controls (for example, to incorporate matters such as assessing the suitability of national or international junket operators and/or junket representatives, and/or international patrons, AML/CTF and minimum 'Know Your Customer' ('KYC') requirements)
- consider the intersection of the framework with the roles, responsibilities and activities of other relevant regulatory bodies such as:

- AUSTRAC's administration of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth) ('AML/CTF Act')

- State and Federal police monitoring/intelligence
- Australian immigration and tourist visa assessments, and
- casino regulators in other Australian jurisdictions.

Option 3: Actively prohibit junkets in new legislation.

This would achieve a 'zero tolerance' for the significant risks of junket activity.

However, if they are not accommodated and regulated, there is a separate risk that the activity will occur illegally.

Question 6. International Commission Business ('junkets')

A. Which of the Options for the future legislation of International Commission Business set out above do you prefer and why?

Professional Fundraisers

Standard lotteries are a type of 'permitted gaming' – generally in the form of a raffle – undertaken by community sporting clubs, charitable organisations, or similar not-for-profit clubs for the purpose of raising money for promotion, support, or conduct of sporting, social, political, literary, artistic, scientific, benevolent, charitable, or other like activity. It is regular practice in Western Australia that not-for-profit associations conducting standard lotteries engage professional fundraisers to conduct the raffle on their behalf (for example, conduct the promotion/ marketing, ticket sales, etc.).

It is understood that, like many TPSPs, professional fundraisers can provide useful and valuable services. Many not-for-profit organisations are run by volunteers or a small staff, so professional fundraisers can run a successful raffle to raise funds for the organisation that they would not have had the time or expertise to conduct on their own.

However, professional fundraisers often sell the standard lottery tickets for the not-for-profit organisation who holds the permit. This means that the professional fundraising business collects and holds:

- potentially significant sums of money that they might transfer to the charitable organisation in stages, or only some point after the end of the sales period
- ticket purchasers' personal identity and payment data.

Therefore, there are also significant potential risks associated with these TPSPs.

Current legislation

Neither professional fundraisers, nor their services, are currently regulated in Western Australia.

Betting Platforms

A licensing and compliance framework for the regulation of a regulated interactive gambling service of a particular kind is being introduced in late 2025 by a head of power created by the *Gambling Legislation Amendment Act 2024*.

Imminent amendments under the Betting Control Regulations will establish a framework for the licensing and regulation of a 'betting platform'.

A betting platform is a TPSP that provides a wagering service:

- the sole or dominant purpose of which is to broker the offering, placing, making, receiving or acceptance of bets on races or events between persons who wish to make or place bets and domestic betting operators,
- using an internet carriage service
- in which the provider does not accept the risk of the bet.

For the avoidance of any doubt, this is not a wagering service provider known as a 'betting exchange'.

Licensing framework - TPSPs

Options for the licensing of third-party service providers in the gambling industry are being considered to maintain the integrity, safety, and legality of gambling operations.

Risks of licensing TPSPs

- Barrier to entry / market withdrawal as a result of regulatory burden/costs which could stifle innovation and impact on the benefits of TPSPs to gambling service providers.
- Duplication of licensing and compliance regimes if TPSPs are operating interjurisdictionally (see WA regulation of interstate gambling services providers).

Benefits of licensing TPSPs

- Regulatory standards will be set that providers must meet, for example minimum probity requirements to obtain an authorisation, compliance with requirements for AML/CTF, integrity, gambling harm minimisation, and reporting.
- Controls will be established that will be monitored and enforced, for example around holding and safeguarding other people's money and information.
- TPSPs will be required to operate within the legal frameworks – unlawful conduct or operating without an authorisation would be subject to appropriate sanctions (see Comprehensive and flexible compliance and enforcement framework).
- The framework could provide for interest from monies held in trust to be used to assist the government subsidisation of community gaming or fund programmes like gambling harm awareness/reduction/support services. In examples like the $500,000 raffle submitted during the 2022 industry consultation referred to in the Limiting the amount of community gaming fundraising proceeds payable to TPSPs section, this could equate to meaningful interest amounts that are currently being retained by the professional fundraising businesses in some or all cases.
- Cost recovery – as many TPSPs that are currently operating are unregulated, oversight such as integrity checks or investigation of complaints is being done indirectly, or not at all. A licensing framework will create a 'user-pays' system through

fee collection, so this activity does not have to be funded by consolidated (or 'tax-payer') money.

- Accountability – gambling service providers cannot avoid or circumvent their responsibilities or obligations by outsourcing elements of their services to unregulated entities.

Proposal

It is proposed that:

- a licensing framework is introduced in the new legislation for existing, known and future TPSPs who are engaged/utilised by gambling service providers regulated in Western Australia
- for the purposes of designing a regulatory regime that is 'future-proof' to allow for things like changing technologies and the evolution of the industry, the framework would:
  a) establish TPSPs as a type of Authorisation and prescribe requirements and authorisation provisions in the legislation
  b) provide that regulations can be made in respect of licensing and regulating, or prohibiting, other TPSPs.

Providing for the licensing and regulating, or prohibiting, of TPSPs in regulation (rather than embedding them in the primary Act) not only creates a regime that is adaptable to the changing industry over time but allows the application of the framework to differentiate between higher-risk and lower-risk services. The regulations can then apply proportionate entry requirements, compliance obligations and enforcement measures based on risk exposure and business scale.

In the first instance, as a minimum, regulations would be made to provide for the following authorisations in operation under the current legislation, and automatically transfer all current certificate holders to the new regime:

- gaming operator's certificates
- gaming equipment supplier's certificates
- betting platform providers

Regulations providing for licensing and regulating other potential types of TPSPs (some potential examples listed below) could also be made initially or at a future date:

- professional fundraisers
- gambling software developers/providers/operators
- gambling brokers
- marketing/promotion services
- providers of hosting, records storage, data management
- intelligence providers (KYC/probity/responsible service of gambling)

Prescribed requirements

The general /overarching provisions would likely include, as a minimum:

- any and all trust money[24] must be held in a designated trust account (separate from personal or business funds) with an approved financial institution, subject to reconciliation, reporting and auditing requirements.
- controls around data privacy and security, and the collection, storage and sharing of personal identity and personal payment information.

Question 7. Ancillary / Third Party / Intermediary Gambling Service Providers

A. Do you think TPSPs such as junket providers, professional fundraisers, gambling equipment suppliers should be required to be authorised under the new legislation?

B. Which TPSPs (whether listed above or otherwise) should/should not have to be licensed? Why?

C. Are there any TPSPs (whether listed above or otherwise) that should be set out in the regulations in the first instance? If so, which one(s) and why?

D. Should there be other Prescribed requirements for all, or for particular, TPSPs?

E. Should the legislation provide for the regulator to exempt certain categories/classes from the mandatory trust accounting Prescribed requirement? If so, what kinds of services/providers might this be applied to and why?

Section 7. Gambling Harm

Gambling-related harms are increasingly considered a public health concern impacting individuals and the broader community. People who gamble at high-risk levels are known to experience suicidality and suicide at higher levels than the general population.[25]

A 2022 study published in the United Kingdom found that, '*until relatively recently, successive governments and industry stakeholders have portrayed gambling as an infrequent and inconsequential leisure activity, while acknowledging that a small population of so-called compulsive gamblers experience severe negative effects as a result of their gambling. In the last 5 years, it has been widely recognised that health, social, and economic harms are experienced by a relatively large population of gamblers, their families, those in their social network, and those in their community.*'[26]

The PCRC referred to 'harm minimisation' as a regulatory model which recognises that governments and gambling service providers have a responsibility to implement public

[24] money received or held for or on behalf of another person or organisation.
[25] Rintoul A et al (2023), 'Gambling-related suicide in Victoria, Australia: a population-based cross-sectional study', *The Lancet Regional Health - Western Pacific*, 41, doi:10.1016/j.lanwpc.2023.100903.
[26] Regan M et al (2023), 'Policies and interventions to reduce harmful gambling: an international Delphi consensus and implementation rating study', *The Lancet Regional Health - Western Pacific*, 7(8), e705-e717, doi:10.1016/S2468-2667(22)00137-2.

health measures to limit excessive gambling behaviour across the population. It concluded that an effective regulatory framework should incorporate elements of harm minimisation and consumer protection and not rely solely or primarily on the principles of individual responsibility and informed choice.[27]

In its 2023 report, *You win some, you lose more: Online gambling and its impacts on those experiencing gambling harm,* the House of Representatives Standing Committee on Social Policy and Legal Affairs recommended that the Australian Government, with the states and territories, develop a comprehensive national strategy on online gambling harm reduction. The Committee indicated that this strategy should be based on public health principles and include measures that:

- prevent gambling harm from occurring
- intervene early when there is risk of harm
- provide appropriate treatment and support for those experiencing harm
- protect the most vulnerable
- are developed with communities to ensure they are culturally safe and linguistically appropriate.[28]

The PCRC found that an analysis of EGM gaming data for patrons using carded play at Perth Casino (from 2019 to mid-2021) showed that the heaviest gamblers account for a disproportionate amount of Perth Casino's turnover and revenue.[29]

It can therefore be inferred that increased protections for vulnerable Western Australian gamblers will likely impact not only gambling operators' revenue, it would also reduce State casino tax and point of consumption tax revenue.

Statutory duty

The PCRC recommended that new legislation impose a duty on the casino licensee to take reasonable steps to mitigate gambling-related harm.[30]

In its 2023 report on online gambling and its impacts, the House of Representatives Standing Committee noted that both Sweden and Spain impose a statutory duty on gambling service providers to take steps to prevent harm, and that France and Denmark employ similar legal concepts.[31]

Although the duty in question is often referred to as a 'duty of care', it is conceptually and practically distinct from the duty of care recognised by Australian negligence law. As discussed below, the latter duty does not usually arise between gambling service providers and consumers of their services.

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[27] PCRC (2022), *Final Report*, p.643-655.
[28] Standing Committee on Social Policy and Legal Affairs (2023), *You win some, you lose more: Online gambling and its impacts on those experiencing gambling harm*, Parliament of Australia, accessed 20 August 2025, recommendation 2.
[29] PCRC (2022), *Final Report*, pp.684-695, par 379-381.
[30] PCRC (2022), *Final Report*, recommendation 15(b)(ix).
[31] Standing Committee on Social Policy and Legal Affairs (2023), *You win some, you lose more*, par 4.98.

In Sweden, both online and land-based gambling providers have a legal duty to *'ensure that social and health protection considerations are taken into account in the[ir] gambling operations in order to protect players from excessive gambling and help them reduce their gambling when this is called for'*. This duty mandates continuous monitoring of gambling behaviour and obliges providers to present an action plan as to how it will be fulfilled.[32]

The Swedish Gambling Authority has issued non-exhaustive guidance on the requirements of the duty. It states that each provider *'must regularly monitor the players' gambling behaviour, make individual risk assessments, implement the required responsible gambling measures and then follow up on the effectiveness of the implemented measures.'*[33]

In its 2023 report, the House of Representatives Standing Committee recommended that national regulation impose *'a customer duty of care'* on online wagering service providers, and that compliance with this legal duty be assessed against a set of standard indicators of risk and harm.[34]

The Committee's inquiry was limited to online gambling but, as the Swedish and other European examples indicate, the same outcomes-based duty can be applied to both online and land-based providers; each must implement a system adapted to their business that achieves the required outcome.

Benefits of prescribing a statutory duty

The potential benefits of introducing a statutory duty of this kind in WA include the following:

- it would require gambling service providers to be proactive about minimising the risk of gambling harm
- it would provide a flexible tool to the regulator, reducing the likelihood that a regulatory gap will preclude them from acting in respect of serious and foreseeable gambling-related harm
- it would be outcomes-based, allowing it to apply equitably across the industry and empowering the regulator to keep pace with new developments.

Risks of prescribing a statutory duty

Potential risks associated with a new statutory duty include:

- increased compliance costs for industry
- increased regulatory costs associated with enforcement activity
- potential inconsistency with any future Commonwealth legislation enacted in accordance with the recommendation of the House of Representatives Standing Committee cited above.

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[32] Swedish Gambling Act (SFS 2018:1138), Chapter 14, s.1.
[33] Swedish Gambling Authority (Spelinspektionen), *Guidance Duty of care*, p.4.
[34] Standing Committee on Social Policy and Legal Affairs (2023), *You win some, you lose more*, rec 18.

Question 8. Statutory duty

A. Should the WA government prescribe a statutory duty for all gambling service providers to take proactive steps to minimise the risk of harm to their consumers?

Compensation

While the existing WA gambling legislation imposes fines on gambling service providers for non-compliance, it does not contain any mechanism by which consumers and other affected persons can be compensated. Consumers seeking redress are required to assume the costs and risks of other forms of legal action, which historically have been unsuccessful in Australia.

Attempts in other Australian jurisdictions to argue that a private right of action can be inferred from existing gambling legislation have failed.[35] Australian courts have also repeatedly declined to recognise a duty of care owed by a provider of gambling services to a consumer – although they have left open the possibility that one could arise in *'an extraordinary case*'.[36]

Another potential legal avenue for redress – a claim that a provider has engaged in unconscionable conduct – requires evidence that the consumer was subject to a 'special disadvantage' that rendered them unable to make worthwhile decisions in their own self-interest, as well as proof of a predatory state of mind on the part of the provider.[37]

In its 2010 report on Australia's gambling industries, the Productivity Commission concluded that…

> *'[i]t is apparent from the case histories that the courts will generally not find in favour of a gambler, whether or not a problem gambler, suing a venue for negligence, breach of statutory duty or unconscionable conduct, other than in a prescribed and narrow set of circumstances.'*[38]

Consequently, a consumer contemplating these forms of legal action faces a significant risk of failure, accompanied by an order to pay the provider's legal costs.

A reformed regulatory framework for gambling in WA could include a more effective mechanism for compensation in cases of provider misconduct. Three main options are set out below.

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[35] *Preston v Star City Pty Ltd* [1999] NSWSC 1273; Reynolds v Katoomba RSL All Services Club Ltd [2001] NSWCA 234.
[36] *Reynolds v Katoomba RSL All Services Club Ltd* [2001] NSWCA 234 [9].
[37] *Kakavas v Crown Melbourne Limited* (2013) 250 CLR 392.
[38] Productivity Commission (2010), *Gambling: Productivity Commission Inquiry Report, Volume 1* (No. 50), Australian Government, accessed 20 August 2025.

Options

Option 1: A fully administered compensation scheme funded by a levy on all gambling service providers, which would function in a manner similar to the existing scheme for criminal injuries compensation in WA.

The main advantages of Option 1 are that:

- it would not require a consumer to commence legal proceedings and expose themselves to the risk of an adverse costs order, and
- access to compensation would not depend on its payment by a particular provider.

However, there would be significant administration costs associated with Option 1. It would also involve a cost to industry in the form of a levy imposed on gambling service providers.

Option 2: Create a new statutory right of action for consumers, allowing them to bring an action for damages against a provider for breach of a new statutory duty (discussed above) or other specified provisions of the new legislation.

This option would still require consumers to take on the cost and risk of legal proceedings. However, it would clarify – for the benefit of both consumers and providers – the circumstances in which a court would award compensation for loss or damage caused by provider misconduct.

Option 3 Empower courts to make compensation orders instead of, or in addition to, orders imposing pecuniary penalties.

Division 4 of Part 5-2 of the *Australian Consumer Law* ('ACL') provides a model for this option:

- under section 237 of the ACL, an application for a compensation order can be made by an individual or by the regulator on behalf of one or more individuals
- the court may make a compensation order if satisfied that an individual (an 'injured person') has suffered, or is likely to suffer, loss or damage because another person has engaged in conduct in contravention of specified chapters of the ACL
- a compensation order may be made in such terms as the court thinks appropriate, but it must be an order that the court considers will compensate the injured person(s) or prevent or reduce the loss or damage they have suffered or are likely to suffer
- pursuant to section 227 of the ACL, if a court considers it appropriate to order payment of both a pecuniary penalty and compensation, but the defendant does not have sufficient financial resources to pay both, the court must give preference to making an order for compensation.

Like Option 1, this option allows a consumer or other affected person to be compensated without assuming the costs and risks of legal action (where the regulator or other prosecuting authority applies on their behalf).

Unlike Option 1, it does not require the creation of a new administrative scheme or the imposition of a levy on all gambling service providers. However, if the availability of compensation prompts additional enforcement action by the regulator, there will be an increase in regulatory costs.

Discussion

None of the three options outlined above would allow a consumer or other affected person to obtain compensation in the absence of provider misconduct.

The purpose of the new mechanism would be to require reparation from gambling service providers who have engaged in unlawful, predatory and/or exploitative practices, not to create a general right to recoup losses. It would:

- promote compliance and satisfy legitimate claims for redress
- provide protection against predatory and exploitative practices
- align with the proposed Objects of the new legislation regarding social expectations for appropriate protections for gamblers and the community and minimising the severity of harm associated with gambling.

Proposal

It is proposed that the new legislation provide a statutory compensation mechanism for victims of misconduct by gambling service providers by empowering courts to make compensation orders instead of, or in addition to, orders imposing pecuniary penalties (**Option 3** above).

Question 9. Compensation

A. Do you agree with the proposal to introduce a statutory mechanism to enable consumers and affected persons to obtain compensation for loss or damage caused by gambling provider misconduct?

B. Alternatively, do you prefer one of the other Options above, or an alternative model of compensation in gambling regulation? If so, which one and why?

C. What measures would help ensure the mechanism is accessible for people experiencing financial stress or personal disadvantage?

D. What kind of misconduct or legislative breaches should trigger a compensation order?

E. Should applications for compensation be able to be made by affected persons as well as by the regulator (on behalf of affected persons)?

F. How might a statutory compensation mechanism be implemented in a manner responsive to the needs of individuals with a gambling disorder?

Protection of young adults

A recent analysis of survey data conducted by the Australia Institute found that:

- almost one in three Australians aged 12 to 17 gambles
- this increases to almost half (46 per cent) of 18 to 19-year-olds
- gambling patterns established by the age of 19 are likely to persist until a gambler turns 24.[39]

A survey conducted for the Victorian Government in 2023 by the Australian National University's Centre for Gambling Research found that Victorian gamblers aged 18 to 24:

- were most likely to be 'moderate-risk' or 'problem' gamblers according to the Problem Gambling Severity Index (PGSI)
- experienced gambling harm at a disproportionately high rate (more than 25 per cent)
- were more likely to drink alcohol while gambling.[40]

Research suggests that young adults are particularly vulnerable to gambling-related harms due to factors including:

- cognitive immaturities such as illusions of control over outcomes, which can lead to loss-chasing
- lack of fully developed executive function, which increases impulsivity and risk-taking behaviour.[41]

An English study investigating the stability of PGSI-defined 'problem' gambling in people between the ages of 20 and 24 found that 'problematic' gambling behaviours were established by the age of 20 years and remained stable when measured 4 years later. The authors concluded that this finding, which is consistent with the Australia Institute analysis cited above, indicated that:

> *'educational and legislative interventions to prevent problems with gambling need to target adolescents and emerging adults.'* [42]

Options

There are two main options for building additional protection for young adults into the reformed legislative framework.

[39] Harrington M and Saunders M (2025) Teenage Gambling in Australia: Rates of expenditure and participation among 12-19-year-olds, The Australia Institute, accessed 21 August 2025.
[40] Suomi A et al (2024) *Victorian population gambling and health study 2023*, State Government of Victoria, accessed 26 August 2025.
[41] See Hollén L et al (2020) 'Gambling in Young Adults Aged 17–24 Years: A Population-Based Study', Journal of Gambling Studies 36, 747–766, doi:10.1007/s10899-020-09948-z and the sources cited there.
[42] Emond A et al (2022) 'Problem Gambling in Early Adulthood: a Population-Based Study, International Journal of Mental Health and Addiction 20, 754–770, https://doi.org/10.1007/s11469-020-00401-1.

Option 1: Increase the minimum gambling age.

The minimum age for purchasing state lottery and instant lottery tickets in WA is 16 years old. The minimum age for selling or purchasing standard lottery (raffle) tickets, or for playing bingo, is 12 years old.

All other gambling services in WA are restricted to persons who are 18 years or older.

In New Zealand, people under 20 are not allowed to enter casinos. In Singapore, and in some US states, the minimum age is 21.

Increasing the minimum gambling age above 18 years would have benefit of limiting legal access to gambling for a group that is particularly vulnerable to gambling harm.

However, Option 1 would create inconsistency with the minimum ages legislated in other Australian jurisdictions for gambling and other controlled products and activities (for example, purchase of alcohol and cigarettes and entry into bars and clubs).

Option 2: Include additional protections for young adults engaging in gambling in the reformed legislation. These protections could include:

- more restrictive mandatory time and/or loss limits
- additional limitations on gambling advertising and/or inducements
- higher penalties for breaches to gambling laws protecting young adults.

Other jurisdictions have incorporated additional protections for young adults into their regulatory frameworks while continuing to allow them to gamble.

Earlier this year, the UK Government introduced mandatory stake limits for licensed providers of online slot games. The general limit was £5, but a lower limit of £2 was prescribed for adults between the ages of 18 and 24 in light of their greater vulnerability to gambling-related harms.[43]

In its regulatory guidance to gambling service providers regarding their statutory 'duty of care', the Swedish Gambling Authority states that age is a factor that should be considered in the risk assessment of players and that gamblers aged 18 to 24 'are a group that deserves extra protection'.[44]

The key benefit of Option 2 is that it would provide extra protection for a vulnerable group, without unduly limiting their freedom (as adults) to participate in a legal leisure activity. In doing so, it would strike a balance between two proposed Objects of the new legislation: providing protections to minimise harm to vulnerable persons and facilitating the maintenance of a responsible and fair gambling industry in WA.

[43] See Department for Culture, Media and Sport and The Rt Hon Stuart Andrew MP (23 February 2024) New £2 maximum stake for under 25s playing online slots, UK Government, accessed 27 August 2025.
[44] Swedish Gambling Authority (Spelinspektionen), *Guidance Duty of care*, p.8.

Proposal

It is proposed that the new legislation introduce additional protections for young adults aged 18 to 24 engaging in gambling (**Option 2** above).

Question 10. Protections for Young Adults

A. Should the minimum age for all gambling activities be increased?

B. Do you agree with the proposal to introduce additional protections for young adults aged 18 to 24 engaged in gambling? If so, what kind of additional protections should be introduced?

Section 8. Gambling advertising

ACMA is the entity responsible for national communications and media regulation. In 2023, they published research showing that between 1 May 2022 and 30 April 2023:

- over 1 million gambling ads aired on Australian free-to-air television and metropolitan radio
- $238.63 million was spent on gambling advertising in Australia on free-to-air television, metropolitan radio and online (including social media).[45]

A recent qualitative study of young people's perspectives on gambling advertising in Western Australia identified its pervasiveness across different media as a key theme, with participants describing it as unavoidable.[46]

During its online gambling inquiry, the House of Representatives Standing Committee on Social Policy and Legal Affairs heard that gambling advertising and sponsorship are significant drivers of gambling harm,[47] and shape young people's attitudes about gambling at an important developmental stage.[48]

Concerns were raised about the promotion of gambling products to young people by online influencers – a trend that has become more pronounced since the publication of the Committee's report.[49]

The Committee also heard concerns expressed by broadcasters, sporting codes and online wagering service providers that increased restrictions on gambling advertising would adversely affect the operations of the major sporting codes and make it increasingly difficult to broadcast sports for free.[50]

[45] ACMA (2023), *Gambling advertising in Australia: placement and spending*, accessed 20 August 2025.
[46] Royce B et al (2025), 'Exploring Perspectives Towards the Gambling Industry and Its Marketing Strategies Among Young People in Western Australia', *Health Promotional Journal of Australia,* 36(2):e955, doi:10.1002/hpja.955.
[47] Standing Committee on Social Policy and Legal Affairs (2023), *You win some, you lose more*, par 5.12.
[48] Standing Committee on Social Policy and Legal Affairs (2023), *You win some, you lose more*, par 5.15-5.17, 5.20, 5.25-5.31.
[49] Gazy M (2025), *Fears new breed of influencers could worsen a $25 billion Australian problem*, SBS News website, accessed 21 August 2025.
[50] Standing Committee on Social Policy and Legal Affairs (2023), *You win some, you lose more*, par 5.99-5.124.

In its 2023 report, the Committee noted that these concerns were not substantiated by the provision of any advertising revenue figures or details of specific operational changes that sporting codes would be required to make if revenue was reduced.[51]

The Committee recommended that:

- the Australian Government, with the cooperation of the states and territories, implement a comprehensive ban on all forms of advertising for online gambling, to be introduced in four phases, over three years, commencing immediately:
  - Phase One:
    - prohibition of all online gambling inducements and inducement advertising, and all advertising of online gambling on social media and online platforms
    - removal of the exemption for advertising online gambling during news and current affairs broadcasts
    - prohibition of advertising online gambling on commercial radio between 8.30-9.00 am and 3.30-4.00 pm (school drop off and pick up)
  - Phase Two:
    - prohibition of all online gambling advertising and commentary on odds, during and an hour either side of a sports broadcast
    - prohibition of all in-stadia advertising, including logos on players' uniforms
  - Phase Three:
    - prohibition of all broadcast online gambling advertising between the hours of 6.00 am and 10.00 pm
  - Phase Four:
    - by the end of year three, prohibition of all online gambling advertising and sponsorship
- gambling advertising on dedicated racing channels and programming should be exempt from the ban
- small community radio broadcasters should be exempt from further restrictions until December 2025.[52]

The Australian Government has undertaken consultation with key stakeholders in relation to the Committee's recommendations.

Polling conducted by the Australia Institute in February 2025 found that:

- three in four Australians (76 per cent) supported a total ban on gambling advertising phased in over three years

[51] Standing Committee on Social Policy and Legal Affairs (2023), *You win some, you lose more*, par 5.135-5.136.
[52] Standing Committee on Social Policy and Legal Affairs (2023), *You win some, you lose more*, recommendation 26.

- four in five Australians supported banning gambling advertising on social media and online (81 per cent) and in stadiums and on players' uniforms (79 per cent)
- nearly nine in ten Australians (87 per cent) supported banning gambling advertising during prime-time TV hours.[53]

The Australian Government's ongoing consideration of the recommendations set out above does not preclude related regulatory action by the states and territories, which already have their own laws and regulations in relation to gambling advertising by both land-based and online providers.

Other jurisdictions

In South Australia, codes of practice issued under state legislation impose additional restrictions on gambling advertising. For example, television advertising is banned between 4pm and 7.30pm on weekdays, except on dedicated sporting channels.[54] Under the national code, gambling advertising is permitted at these times, except during any program classified G or lower or principally directed to children, or from five minutes before to five minutes after live sporting events.[55]

In January 2025, the NSW Government announced a state-wide ban on all casino, lottery and online betting advertising on public transport, to be phased in over 12 months.[56]

Like the other states and territories, WA has implemented measure 8 of the NCPF for Online Wagering[57]. This measure, which commenced in March 2023, requires licensed online wagering service providers to display nationally consistent messaging about the risks associated with online wagering in all relevant advertising and promotional material.

Advertising undertaken by licensed land-based gambling service providers in WA is currently regulated under a single provision of the *Gaming and Wagering Commission Regulations 1988* (WA). Regulation 43 prohibits gambling advertisements that, among other things:

- show a child gambling or at a place where gambling is, or is depicted as, occurring
- are false, misleading or deceptive
- suggest that every bet placed with, or placed or accepted through, a gambling operator will be successful
- offer *'a benefit, consideration or reward'* in return for a person participating in gambling or continuing to gamble (subject to a number of exceptions, including direct marketing to existing customers).

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[53] The Australia Institute (2025), *Polling – Bans on gambling advertising*, The Australia Institute website, accessed 20 August 2025.
[54] Consumer and Business Services (2025), *Authorised Betting Operations Gambling Code of Practice*, South Australian Government, cl.13(2).
[55] ACMA, *Commercial television industry code of practice 2015*, Australian Government, clause 6.5 and Appendix 3.
[56] NSW Government (28 January 2025) *Minns Government moves to ban gambling advertising from trains* [media release], NSW Government, accessed 20 August 2025.
[57] Formally embedded in regulations in February 2025, see Betting Control Regulations 1978, Part 3A and Gaming and Wagering Commission Regulations 1988, Part 4A.

It also requires gambling advertisements to include 'the telephone number of the national problem gambling helpline or details of the national problem gambling on-line counselling website' and, if published in audio or audio-visual form, 'the words 'gamble responsibly' or a similar responsible gambling message.'

Options

The proposed legislative reforms could include changes to how gambling advertising is regulated in WA. There are three main options under consideration.

Option 1: Impose additional restrictions on gambling advertising similar to those that exist in South Australia.

This option could be implemented through legislation similar to part 2, division 3 of the *Gambling Administration Act 2019* (SA), which allows the regulator to issue advertising codes of practice and sets out penalties for non-compliance with mandatory provisions of them.

The option would promote greater consistency of regulation between the states. It could include limitations on advertising during prime-time TV hours, as well as further restriction of in-stadia advertising (which is usually regulated at the state level). The power to issue codes of practice, which are easier to update than legislation, would provide the regulator with the flexibility to respond to emerging issues (like influencer marketing) or future regulatory action by the Australian Government.

Option 2: Implement a phased ban on all online gambling advertising in WA, extended to land-based gambling service providers where appropriate.

This option would be consistent with the recommendation of the House of Representatives Standing Committee set out above. If implemented successfully, it is likely to have a greater harm minimisation impact than Option 1.

Option 2 would impose a substantial limitation on the business activities of gambling service providers in WA that may not be replicated in other Australian jurisdictions. It would also involve significant costs associated with monitoring and enforcement. While Option 1 would also involve an increase in regulatory burden and enforcement costs, both would be greater for Option 2.

Option 3: Defer any reforms relating to gambling advertising until after the Australian Government formally responds to the recommendations of the House of Representatives Standing Committee.

If the Australian Government decides to implement the Committee's recommendation on online gambling advertising, the WA Government can then enact corresponding or complementary reforms (including the extension of restrictions to WA's land-based providers where appropriate).

Alternatively, if the Australian government decides not to implement the Committee's recommendation, the WA Government can consider what additional restrictions (if any) should be imposed on gambling advertising at the state level at a later time.

The benefit of deferring reform would be to avoid any inconsistency with future national legislation and the need for further reform to be undertaken as a consequence.

Question 11. Gambling advertising

A. Which option do you prefer and why?

B. Scope of advertising restrictions:

   i. Do you support the introduction of additional gambling advertising restrictions in WA?

   ii. Should advertising restrictions be different for online gambling service providers compared with land-based gambling service providers? If so, how should they differ, or what kind of restrictions would be appropriate for each?

   iii. Are there specific advertising formats that should be explicitly regulated or unregulated?

C. Implementation and enforcement: What challenges do you foresee in enforcing new advertising restrictions?

Section 9. Complementary gambling regulation

Complementary regulation refers to different levels or approaches to regulating a single industry or product that work together, or supplement each other, such as when a federal government law is applied in a state alongside the state's own laws on the same topic.

This combined approach can provide consistency and uniformity, or address different aspects of a single issue where one level of government does not cover everything.

See also Matters regulated by Commonwealth legislation

This section discusses some examples of gambling related activities that are regulated by other Australian laws, but which directly impact the Western Australian community and gambling sector. It sets out potential options for consideration as part of the reform, and invites feedback on the proposals.

AML/CTF

Money laundering, the financing of terrorism, and certain other serious financial crimes are regulated by the Federal Government in accordance with the AML/CTF Act.

Under the AML/CTF Act, certain gambling activities are classified as 'designated services' and, as such, reporting entities are required to register with AUSTRAC, develop and maintain a compliant AML/CTF Program and report certain transactions to AUSTRAC, including by way of threshold transaction reports and suspicious matter reports.

The PCRC expressed their view that 'the fact that there are particular state and federal law enforcement agencies who are primarily responsible for the detection of money laundering offences and the enforcement of money laundering laws does not abrogate the responsibility of the GWC to regulate and oversee the mitigation of the risk of money laundering being facilitated through the operations of Perth Casino.'[58]

The PCRC concluded[59] that it is an aspect of the GWC's function and responsibilities to exercise its statutory and regulatory powers to:

(a) mitigate the risk of money laundering being facilitated through the organisation and conduct of gaming operations at Perth Casino

(b) regulate and oversee the effectiveness of Perth Casino's systems and processes to mitigate the risk of money laundering being facilitated through the organisation and conduct of gaming operations of Perth Casino, and

(c) cooperate with and assist relevant state and federal regulatory and law enforcement agencies to detect money laundering offences and enforce state and federal laws with respect to money laundering (referred to as the **AML** responsibilities).

Ultimately, the PCRC findings create a firm view that the State regulator has implied responsibilities under the current legislation to detect money laundering offences and enforce state and federal laws with respect to money laundering.

While the PCRC focussed exclusively on the operations of the Perth Casino, AML/CTF risks extend to other gambling operators.

Constitutionally, if a law of a State is inconsistent with a law of the Commonwealth, the Commonwealth law takes precedence and the State law is invalid to the extent of the inconsistency.[60] That is, if the new WA gambling legislation were to regulate this activity in a way that was already regulated under the AML/CTF Act, the WA laws would have no legal effect.

However, the new legislation could be drafted to provide the regulator with clear duties and responsibilities, and associated powers, with respect to money laundering and terrorism funding for gambling providers operating in Western Australia.

Proposal

It is proposed that the new legislation is drafted to include clear AML/CTF powers, duties and responsibilities for WA gambling operators and the regulator within a way that:

a) reflects the conclusions of the PCRC, but extends to all gambling operators in WA wherever appropriate, and

b) supports, and is not inconsistent with, the Commonwealth AML/CTF Act.

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[58] Money Laundering, Chapter 8, PCRC *Report*, March 2022
[59] Money Laundering, Chapter 8, PCRC *Report*, March 2022
[60] Section 109, *Commonwealth of Australia Constitution Act 1900*

This will:

- address the significant findings of the PCRC
- address money laundering and terrorism financing risks associated with gambling across all sectors of the industry, and
- align with the proposed Objects of the legislation regarding controls and protections for detecting and deterring criminal influence or exploitation in, or resulting from, the provision of gambling services.

Question 12. AML/CTF

A. What mechanisms could be introduced by legislation to monitor and enforce AML/CTF obligations at the State level?

B. What impact would expanded AML/CTF obligations have on gambling operators in WA, particularly smaller operators already captured by the AML/CTF Act?

Domestic betting operators

Bookmakers licensed in other jurisdictions – referred to as 'domestic betting operators' or 'inter-state' operators in the Betting Control Act – can conduct the business of betting on events (for example, from sports matches to Eurovision Song Contest) and races (for example, horse or greyhound) with WA residents. Most of the 'major' bookmakers and sports betting companies operating throughout Australia have established their head offices, and become licensed, in a jurisdiction other than WA (most prominently the Northern Territory), but are permitted to provide gambling services to Western Australians.

Currently, WA legislation has a limited scope of regulation regarding the activities of interstate gambling operators licensed in other jurisdictions when they are dealing with WA customers – mainly regarding the payment of taxes and levies.

Other jurisdictions

In South Australia, interstate betting operators are not permitted to conduct betting operations in that State without a notice of approval issued by the regulator.

Gambling operators are required to give notice of their intention to conduct betting operations in South Australia. This triggers an authorisation process for the issue of a Notice of Approval which contains trading authorisations and conditions as follows:

> Trading Authorisations
>
> *1. In accordance with section 40A(3) of the Act, the operator is authorised to conduct betting operations in South Australia effective from <date> by telephone, internet or other electronic means.*
>
> *2. This authorisation is only valid while the licensee is actively approved to conduct the operations under the licence in the jurisdiction of Northern Territory Racing Commission (NTRC), and not suspended or prohibited.*

Conditions

- *As an authorised interstate betting operator, you must*
  - *offer your betting products only by telephone, internet and other electronic means - unassisted by local facilities;*
  - *comply with the advertising and responsible gambling codes of practice and requirements for the approval of systems and procedures designed to prevent gambling by children in the Gambling Administration Guidelines issued by the Liquor and Gambling Commissioner;*
  - *provide an annual return to the Commissioner detailing the betting operations over the course of the year in South Australia;*
  - *betting must relate only to races only held by licensed racing clubs and approved contingencies;*
  - *notify the Commissioner within 7 days of any person that the betting operator has barred.*
- *Any failure to comply with the above requirements may result in disciplinary action, including withdrawal of the authorisation.*
- *Approval is subject to any condition imposed by the Authorised Betting Operations Act 2000, its Regulations and Authorised Betting Operations Act 2000-Gambling Codes of Practice.*
- *The operator must notify the Commissioner if they wish to cease conducting betting operations in South Australia.*

Gambling on overseas lotteries

Section 102 of the current GWC Act prohibits 'foreign lotteries'.

> ***102. Certain lotteries unlawful***
> *The conduct of a lottery, whether or not it constitutes gaming, is unlawful unless it is a trade promotion lottery that complies with prescribed conditions, a lottery, game of lotto or soccer football pool conducted under the Lotteries Commission Act 1990, an authorised game as defined by the Casino Control Act 1984 played in accordance with rules approved under that Act in a licensed casino as so defined, or is, or is deemed to be, a permitted lottery, permitted gaming, social gambling, or a permitted amusement with prizes.*

The GWC Act provides at section 101 that:

- a '**foreign lottery**' is defined as a lottery which is conducted, drawn or decided wholly or partly outside Australia, notwithstanding that the same may be legal according to the law of the place, and
- an '**unlawful lottery**' means a lottery declared by section 102 to be unlawful, and includes a foreign lottery conducted in the State.

However, it is understood that section 102 of the GWC Act is intended to apply only to lotteries that are conducted either wholly or in partly in Western Australia.

There is no current consideration of removing or lessening the prohibitions on foreign lotteries in WA.

Under the Lotteries Commission Act, Lotterywest has exclusivity as the only authorised lottery provider established and operating in Western Australia.

Other jurisdictions

Northern Territory

In the Northern Territory, legislation provides for an 'internet gaming business' licence. An internet gaming business is one which uses the internet to conduct any or all of the following activities:

- a lottery
- a game
- the sale of tickets in a lottery or foreign lottery.

A foreign lottery in the Northern Territory includes a lottery conducted or to be conducted outside the Territory which is authorised by or under and conducted in accordance with the law of the country in which it is conducted.

Licensees authorised by the Northern Territory gambling regulator operate a model whereby a player places an online ticket order. A third-party agent (in a foreign country) purchases a matching ticket in the overseas lottery draw. The draw is conducted in a foreign country and is not witnessed by an Australian regulator.

In the event of a winning ticket, the third-party agent collects the prize on behalf of the organisation, from the overseas lottery, the organisation then arranges payment to the player. The player never receives a valid ticket for the draw so could not claim the prize even if they travelled to the foreign country to collect.

South Australia

To uphold its consumer protection and harm minimisation policies, South Australia has chosen to prohibit unauthorised lottery services, meaning a lottery service that is not authorised in South Australia (including those licensed elsewhere) is prohibited. The primary legislation that regulates lotteries in South Australia is the *Lotteries Act 2019* (SA). Section 4 of this act defines an 'unlawful lottery means a lottery other than a licensed lottery or a permitted lottery'. Section 9(1) states 'This Act applies to a lottery in which persons resident in this State can participate, whether the lottery is conducted within or outside of the State'.

Discussion

Concerns have been raised that Western Australian residents who participate in the purchase of tickets in foreign lotteries via licensees authorised in another state or territory may not receive the same level of customer protections that are provided to customers who deal with operators/products subject to legislative requirements enacted for licensees in Western Australia.

Section 92 of the Australian Constitution states that:

> *'trade, commerce, and intercourse among the States, whether by means of internal carriage or ocean navigation, shall be absolutely free.'*

However, having no regulations regarding interstate providers operating in WA:

- requires the Western Australian regulators to rely on another entity's assessment and enforcement of gambling operators licensed in other jurisdictions but operating in WA – that is, the WA regulator does not have jurisdiction to deal with patron complaints, employee behaviours/non-compliance, it cannot require gambling operators to provide gambling information/player data, provides limited search and seizure powers, allows the WA regulator no ability to find an operator 'unfit' or suspend/prohibit them from operating in WA, and provides no power to impose conditions, or fines;
- creates inconsistent protections for consumers of gambling services, depending on which provider they are gambling with, where the provider is located, and the changing legislation of those jurisdictions over time; and
- creates an 'uneven playing field' between gambling service providers who are situated in WA and must, therefore, be licensed in WA and those who have established themselves in jurisdictions with lower regulatory costs and requirements.

See further WA regulation of interstate gambling services providers below.

Question 13. Regulation of entries into foreign lotteries

A. Should the new legislation require re-sellers of entries into foreign lotteries to WA consumers to be authorised in WA?

WA regulation of interstate gambling services providers

As highlighted above, the social, political, economic, technological and regulatory environment has changed significantly since the current gambling laws were introduced up to 71 years ago.

The current and expanding ability of gambling providers to offer services across State borders with the use of phone and internet technologies was not the primary focus when the current legislation was drafted.

Licensed operators in other jurisdictions (such as domestic betting operators, or providers of gambling on overseas lotteries discussed above) are authorised to offer internet gaming and conduct betting on events/contingencies approved for that purpose by the regulator in their licensing jurisdiction.

The regulator in each state determines what products are approved for licensees in their State/Territory. Some jurisdictions permit licensees to provide online gaming services such as, purchasing/matching entries in lotteries conducted in other countries. WA licensed gambling providers must conduct their gambling activities in accordance with WA laws, and may not be permitted to offer the same products and services as interstate licensees.

Section 92 of the Australian Constitution states that:

> *'trade, commerce, and intercourse among the States, whether by means of internal carriage or ocean navigation, shall be absolutely free.'*

Over time, the High Court of Australia has interpreted this section in various ways, especially in landmark cases like *Cole v Whitfield*, which clarified that Section 92 prohibits protectionist burdens on interstate trade, rather than all forms of regulation.

Western Australian residents can participate in these gambling activities via those providers licensed in other States/Territories of Australia.

Benefits of creating a framework for authorising all interstate gambling service providers who provide services to WA

The requirement for an operator to be licensed or authorised in each jurisdiction that they operate within is common for many companies conducting business in multiple jurisdictions under State (rather than federal) laws, such as property developers and liquor retailers.

It ensures that:

- the regulator can undertake an assessment of the suitability of the business to operate using the same criteria local businesses are required to meet
- the regulator knows that the business is operating in the State so it can monitor its activities as part of its compliance programs
- WA residents would have the same protections when betting with any provider, not just those physically established in WA
- the regulator can compel the operator to provide information and/or participate in an investigation into their conduct or operations
- the regulator can take appropriate action to prevent the operator from trading in WA if they have committed offence/s under the WA legislation or in another state or territory – the regulator is provided with appropriate powers to regulate all gambling activity in WA rather than having to rely on the discretion and resources of the 'home' jurisdiction to determine whether to take action in defence of offences against Western Australian residents
- the regulator can recover the cost of the assessment and compliance/monitoring activities through an application/annual fee
- companies cannot 'jurisdiction-shop' for the State or Territory with the lowest entry and compliance requirements and then offer their services from there to WA residents
- there is an 'even playing field' for operators licensed in WA and those licensed elsewhere – WA business are not unfairly disadvantaged by interstate operators being subject to less onerous or rigorous regulatory requirements.

Risks of creating a framework for authorising all interstate gambling service providers who provide services to WA

By introducing operating entry requirements that don't currently exist, this would represent a significant shift in the regulatory burden on gambling services providers who offer services within WA from locations outside of WA.

This framework would create 'dual regulation' which can result in:

- a retraction of those services from WA, reducing the range of options available to consumers, a possible disbenefit to 'punters' (for example, by offering less competitive odds)
- a perception that the laws are 'anti-competitive' and a way to create a monopoly for the state based licensees
- Confusion for consumers: possible uncertainty with regard to who is responsible for regulating the licensee/activity.
- Increased costs: may require the payment of two separate registration/authorisation fees.
- Administrative burden: operators must have systems in place to comply with the laws in each jurisdiction in which they offer services.

Options

The following options set out options for how the new legislation could provide for the regulation of gambling service providers who deal with WA residents, without offending the free trade provisions of the Australian Constitution.

Option 1: draft the new gambling legislation to maintain the current situation, which allows gambling operators to provide services to persons in WA if they hold an authorisation granted by a regulator in any Australian state or territory.

Option 2: draft the new gambling legislation to create citizen-centric requirements that all gambling operators who conduct business with a person located in WA must be authorised in WA, under WA legislation.

Option 2 would attract all of the WA regulation of interstate gambling services providers

As highlighted above, the social, political, economic, technological and regulatory environment has changed significantly since the current gambling laws were introduced up to 71 years ago.

The current and expanding ability of gambling providers to offer services across State borders with the use of phone and internet technologies was not the primary focus when the current legislation was drafted.

Licensed operators in other jurisdictions (such as domestic betting operators, or providers of gambling on overseas lotteries discussed above) are authorised to offer internet gaming

and conduct betting on events/contingencies approved for that purpose by the regulator in their licensing jurisdiction.

The regulator in each state determines what products are approved for licensees in their State/Territory. Some jurisdictions permit licensees to provide online gaming services such as, purchasing/matching entries in lotteries conducted in other countries. WA licensed gambling providers must conduct their gambling activities in accordance with WA laws, and may not be permitted to offer the same products and services as interstate licensees.

Section 92 of the Australian Constitution states that:

> *'trade, commerce, and intercourse among the States, whether by means of internal carriage or ocean navigation, shall be absolutely free.'*

Over time, the High Court of Australia has interpreted this section in various ways, especially in landmark cases like Cole *v Whitfield*, which clarified that Section 92 prohibits protectionist burdens on interstate trade, rather than all forms of regulation.

Western Australian residents can participate in these gambling activities via those providers licensed in other States/Territories of Australia.

Benefits of creating a framework for authorising all interstate gambling service providers who provide services to WA, and the costs of licensing and compliance would be offset by the charging of a fee.

Option 3: draft the new gambling legislation to create jurisdictional consumer law requirements (similar to South Australia), such that all betting operators who conduct business with a person located in WA, in addition to holding an authorisation granted by a regulator in any Australian state or territory:

- must comply with the gambling requirements of WA legislation e.g. harm minimisation standards, provision of any information and data requested in accordance with WA laws relating to player activity, statistics, gambling turnover/revenue, machine/platform technical information, etc.
- will be subject to the same compulsion / investigation powers and sanctions.

Option 3 would create less 'up front' red tape for interjurisdictional providers, and avoid the costs of authorisation assessments, but would result in the same complaint-handling, compliance monitoring and enforcement obligations for the regulator, without being offset by an application/annual fee.

This would require subsidisation from consolidated revenue to avoid WA licensees bearing the cost of regulating interstate operators.

Proposal

It is proposed that WA legislation is amended to provide the power to prescribe requirements for interstate licensed entities when dealing with customers based in Western Australia.

An integral element of the provision and regulation of gambling services rests in the public confidence and trust in the credibility and integrity of the regulatory process, the existence of controls and protections, and the ability to investigate and sanction law breakers. The most effective way to achieve the highest levels of such public confidence and trust, would be for the State to enact and enforce consistent regulation to all activities, locations, and persons related to the operation of gambling and all related service industries.

Question 14. Regulation of interstate gambling service providers

A. Which of the above options do you prefer and why?

Section 10. Community Gaming

Expand available uses for community gaming proceeds

The GWC Act currently provides that community gaming permits can be issued:

- for a variety of community gaming purposes such as standard lotteries (or 'raffles'), two-up, bingo, amusements with prizes (for example, chocolate wheels, art unions)
- for a variety of specified reasons, for example:
  - it has as the principal object of the proposed gaming the raising of moneys in good faith for the active promotion, support or conduct of any sporting, social, political, literary, artistic, scientific, benevolent, charitable or other like activity
  - religious or charitable purposes or the promotion or advancement of social welfare including sports or games and cultural or public recreational activities
  - raising money for the benefit of community, cultural, ethnic or charitable purposes
- as long as the activity is not conducted for the purposes of private gain or any commercial undertaking.[61]

While the prohibition against raising funds for any 'commercial undertaking' is clear and understood, the current legislation is interpreted and applied in a way that 'private gain' includes the benefit of an individual (rather than benefiting the fundraising body as a whole).

For example, a sporting club is prohibited from obtaining a permit to, for example, raise funds to rehabilitate or purchase mobility assistance equipment for a life-long member who has been seriously injured, as this is considered a 'private gain' to that individual.

This current framework:

a) describes/distinguishes the purposes for which community gaming proceeds can be used in a way that is inconsistent, for reasons that are not apparent and do not seem necessary

[61] *GWC Act,* ss. 3(3), 51, 104.

b) is potentially overly-restrictive in its application of monies being raised for 'private gain'.

Proposal

It is proposed that the new legislation is drafted in a way that:

- slightly expands the use for which community gaming authorisations can be obtained to any **charitable purpose** (likely by reference to its definition in the *Charitable Collections Act 1946* (WA), and
- is consistently applied.

The *Charitable Collections Act 1946* (WA) currently defines **charitable purpose** as:

(a) the affording of relief to diseased, sick, infirm, incurable, poor, destitute, helpless or unemployed persons, or to the dependants of any such persons;

(b) the relief of distress occasioned by war, whether occasioned in Western Australia or elsewhere;

(c) the supply of equipment to any of His Majesty's naval, military, or air forces, including the supply of ambulances, hospitals and hospital ships;

(d) the supply of comforts or conveniences to members of the said forces;

(e) the affording of relief, assistance or support to persons who are or have been members of the said forces or to the dependants of any such persons;

(f) the support of hospitals, infant health centres, kindergartens and other activities of a social welfare or public character;

(g) any other benevolent, philanthropic or patriotic purpose.

The framework could specify statutory conditions, such as minimum consumer disclosure requirements so that the purchaser could make an informed choice whether to participate in the activity to raise funds for a particular purpose, or conditions could be imposed on the authorisation as determined by the regulator at the time of being assessed and issued.

Question 15. Expanding available uses for fundraising proceeds

A. Do you have any concerns about expanding the available uses for fundraising proceeds to charitable purposes?

B. Are there 'minimum conditions' (such as disclosure of the use of the funds) that you think should be set in the legislation? If so, what are they and why?

Section 11. ‘Categories’ for standard lotteries (raffles)

Standard lotteries are ‘raffles’ - a type of community gaming conducted to fundraise for a charitable purpose where tickets or chances in the lottery are offered for sale to the public and the lottery is decided by the drawing of tickets or some other random selection method.

Standard lotteries range from small raffles to fund new uniforms for a sporting club, to large raffles with house and land or major cash prizes.

Currently, WA doesn’t require authorisations to be obtained for ‘small private lotteries’ or ‘minor fundraising lotteries’ (descriptions in table below) but all other standard lotteries require a permit.

The varying risk is recognised and managed by policies. For example, if the total value of the prize pool is more than $30,000, the organisation is required to ‘secure’ the prize pool by either a bank guarantee or other security to ensure that ticket purchasers can be reimbursed/compensated if the raffle is unsuccessful. Authorisations can also be subject to various conditions and requirements on a case-by-case basis.

Other jurisdictions

Other Australian jurisdictions have recognised that different types of fundraising raffles have different levels of risk, based on the value of the prize pool, total ticket sales or entry fee, and have separated the regulatory requirements accordingly.

The table below sets out how the other States and Territories have differentiated between lottery/raffle activities and which of those require authorisation.

Table: Regulation of Standard Lottery/Raffle Activities in Australian jurisdictions

	Low risk - no authorisation required	Medium risk – Authorisation required	High risk – Authorisation required
ACT[62]	Total prize value does not exceed the prescribed amount (currently **$2,500)**		Total prize value exceeds prescribed amount (currently **$2,500)**
NSW[63]	Total prize value below a prescribed amount (currently **$30,000**)		Total prize value exceeds the prescribed amount (currently **$30,000**)
NT[64]	Total value of ticket sales or entry fees is less than the prescribed amount (currently **$5,000**)	Ticket value of ticket sales total between prescribed amounts (currently between **$5,001 and $20,000**)	Total value of ticket sales exceed the prescribed amount (currently **$20,000**)
QLD[65]	Category 1: Gross proceeds not more than the prescribed amount (currently **$2,000**) Category 2: Gross proceeds between the prescribed amounts (currently **$2,000 and $50,000**)		Category 3: Gross proceeds greater than the prescribed amount (currently **$50,000**)
SA[66]	Total prize value of the prescribed amount or less (currently **$5,000**)		Total prize value exceeds the prescribed amount (currently **$5,000**)
TAS[67]	Total prize value is less than the prescribed amount (currently **$10,000**)		Total prize value exceeds the prescribed amount (currently **$10,000**)
VIC[68]	Total prize value is the same or less than the prescribed amount (currently **$500**) Total prize value of the prescribed amount or less, conditions apply (currently **$22,340**)	Total prize value less than the prescribed amount (currently **$22,340**) if the provider cannot meet specific conditions, such as the length of the raffle and/or the value of the tickets.	Total prize value exceeding the prescribed amount (currently **$22,340**)
WA[69]	**Small private lotteries** -Drawn in no more than 8 days, restrictions on who can participate and maximum total prize value no more than the prescribed amount (currently **$1000**) or -Drawn on the same day and maximum prize value no more than the prescribed amount (currently **$2000**) **Minor fundraising lottery** Prize value no more than the prescribed amount (currently **$200)**		**Standard Lottery (raffle)** All other standard lotteries require an authorisation.

[62] *Lotteries Act 1964*
[63] *Community Gaming Act 2018* and Community Gaming Regulation 2020
[64] Gaming Control (Community Gaming) Regulations 2006
[65] *Charitable and Non-Profit Gaming Act 1999*
[66] *Lotteries Act 2019* and Lotteries Regulations 2021
[67] *Gaming Control Act 1993*
[68] *Gambling Regulations Act 2003*
[69] GWC Act

Proposal

It is proposed that the new legislation provide three 'categories' for standard lotteries, as follows:

1. **Low risk:** lotteries with very low prize values, short sales periods and very low ticket cost would be 'negatively licensed'. This could include lotteries that are authorised by the regulator in another Australian State or Territory but are available for participation to WA consumers. These lotteries could be run by organisations, for charitable purposes, subject to compliance with prescribed 'light touch' consumer protection conditions, but without the need for an authorisation from the regulator.
2. **Medium risk:** lotteries with prize pools, sales periods and ticket costs which were slightly higher, but capped at prescribed levels, could be categorised as a 'minor lottery' or similar. These would require an authorisation that had streamlined application requirements, lower fees, and faster processing times. They would be subject to more stringent prescribed conditions such as providing a security and reporting requirements.
3. **High risk:** lotteries with substantial prize pools, high ticket costs and extended sales periods could be categorised as a 'major lottery' or similar. These would require a more rigorous authorisation process, higher fees, and be subject to more rigorous prescribed conditions such as trust accounting and reporting requirements.

This categorisation framework would:

- reduce the cost and impost of running low risk fundraising raffles
- provide appropriate assessment processes and consumer protections for higher risk fundraising raffles
- provide a transparent and consistent framework for standard lotteries
- increase efficiency in the regulator's strategic risk assessment and resource allocation for community gaming
- still be easy to understand and administer by not becoming overly segmented or granular
- tie into the authorisations, negative licensing, third party service providers, and compliance and enforcement frameworks discussed above.

See also: Negative licensing and exempted activity and Professional Fundraisers

Question 16. Categories for standard lotteries

A. Do you have any concerns with the new legislation categorising standard lotteries as set out in the proposal above?

B. Do you think the categorisation should be separated using different criteria or other risk considerations? If so, what are they and what improvements would they provide?

Section 12. Limiting the amount of community gaming fundraising proceeds payable to TPSPs

Community gaming allows not-for-profit organisations to fundraise by running gaming activities (such as raffles or gaming nights), as long as it is not for private gain or a 'commercial undertaking.'

Currently, a person (such as a TPSP) who receives reasonable remuneration to assist in the conduct of gaming is not taken to be 'private gain'[70].

However, the current GWC policy is that if a standard lottery is conducted using a professional fundraiser, only 30 per cent of gross proceeds raised through a standard lottery need to go to the charity or not-for-profit organisation. The private fundraising operator can retain the remaining 70 per cent of all takings of the lottery. This was an increase from the previous 23 per cent required prior to 1 January 2024. This could be seen as inconsistent with the intent of the community gaming framework to provide for the raising of moneys to principally be for the promotion, support or conduct of sporting, social, political, literary, artistic, scientific, benevolent, charitable, or other like activity.

Discussion

During consultation with the industry in mid-late 2022 regarding the above increase in the amount of the profits charitable organisations should receive:

- The strong view expressed by the 'traditional' fundraising service providers is, based on the cost of resourcing personnel-reliant services such as call centres and face to face sales, reducing the proportion of ticket proceeds that the professional fundraiser can keep, would be detrimental to their business and subsequently, to charity organisations (as they would often not undertake raffles to raise money without this assistance).
- The strong view expressed by the digital fundraising platform providers is that a flat rate of around 6 per cent of ticket sales is sufficient for organisations to successfully raise funds through raffles.

In the submissions, a professional fundraiser argued that, if a charitable organisation is seeking to raise $50,000 and they manage to raise that amount, what difference does it make if that is only 10 per cent of the proceeds (and, by inference, that the private business makes $450,000 in the process)?

Similarly, examples exist in relation to suppliers of gaming equipment for community fundraising gaming functions.

[70] GWC Act, section 39(5).

In one recent analysis, $365,000 was raised in a month through community gaming poker functions. The supplier of the gaming equipment paid roughly $45,000 of the monies raised to the not-for-profit organisations who held the permits for these fundraising events. This means that the not-for-profits received only a small fraction of funds raised in their name, through their permit.

There is a view that not-for-profit organisations are being used as a front for private operators to make enormous profit under the veil of charitable fundraising initiatives. Introducing a cap on supplier retention could help redirect more proceeds towards the communities these events are intended to support.

Question 17. Should there be a limit on how much of the fundraising profits a support service can make/retain?

A. Should there be a statutory limit on the percentage of gross profits from 'fundraising lotteries' that TPSPs are permitted to charge/retain for providing ancillary, third party or intermediary gambling services?

B. If you believe there should be a limit imposed, what do you think an appropriate level/amount would be and why?

C. Should the legislation require organisations to disclose the percentage of proceeds being paid in administration/TPSP fees?

Section 13. Casino control

Recognising that casino operation has unique features compared to other gambling services, the new legislation will necessarily include a separate Part to specifically provide for this segment of the industry.

The CBIA Act will remain in place for the purpose of establishing the State Agreement.

However, subject to the **Framework** and relevant **Reform Initiatives** set out above, and implementation of the findings and recommendations of the PCRC related to regulatory change, the laws under the Casino Control Act and the CBIA Act relating to gambling operations will be transferred to the new legislation to continue operating similarly to the current regime, with the exception of the matters proposed for change below.

Licensing of casino employees

The current legislation requires persons who are employed by, or who work in, a casino to be licensed.

It is considered important for people working at the casino to be assessed and licensed by the regulator due to the risks associated with casino operation such as integrity of gaming, criminal infiltration, and money laundering.

The existing framework identifies two categories of licence:

1. '**casino employee**' is defined as a person employed or working in a licensed casino whose duties or responsibilities relate to or are in support of the licensed casino
2. '**casino key employee**' is defined as a person
   a) employed or working in a licensed casino in a managerial capacity or empowered to make decisions, involving the exercise of his discretion, that regulate the operation of a licensed casino, or
   b) who the Commission determines in the public interest by reason of his influence, remuneration or function, should be designated as such.

The Casino Control (Burswood Island) (Licensing of Employees) Regulations 1985 currently provide that the regulator may define the types of work in the casino which may be carried out by a person who is the holder of an authorisation under those regulations.

There is currently no meaningful distinction in the operational licensing process for each category of employee authorisation. Both categories of employee are subject to consideration of the application with the power to:

a) cause such investigation as considered necessary to be made with regard to the applicant
b) consider the application and such information or other matters relevant to or accompanying it together with the results of any such investigation and an assessment made of the suitability of the applicant to be employed or work in the casino, and
c) grant an application or grant an application of a specified type or specified types of work or subject to specified terms, conditions or restrictions, or that it may be refused.

Proposal

It is proposed that the new legislation simplify casino employees into a single 'employee authorisation' category which would incorporate both current tiers.

It is recognised that there are people involved in the casino who are in much higher positions of control or influence in the licensed casino or its parent/holding companies (for example, the President or CEO) compared with other casino employees (for example croupiers or security officers), and that this carries an important distinction in the roles, responsibilities and liability. Under this proposal, people holding more significant positions of control or influence will be considered 'associates' of the casino licensee and dealt with in accordance with the treatment of 'close associates' under the current legislation, enhanced by the findings and recommendations of the PCRC[71].

Examples of existing gambling licensing frameworks subject to single category of employee authorisation types can be found under the licensing of key employees under the RWWA Act and the licensing of key employees under the Part 1A of the Betting Control Act. The requirements under the Betting Control Act are considered contemporary

[71] Most relevantly, PCRC recommendations 15(1), 30 and 35(f).

in that they were enacted in 2019 in preparation for the proposed sale of the WA TAB to a private operator.

Question 18. Consolidation of casino employees into a single licensing category

A. Do you have any views about the proposal to consolidate 'casino employee' licences and 'casino key employee' licences into a single licensing category?

B. Do you believe the current approach of prescribing two separate categories for casino employees addresses an inherent risk that cannot otherwise be dealt with by existing controls such as specified terms, licence conditions or restrictions?

Casino Directions

Under the current legislation, the GWC can give Directions to a casino licensee about the organisation, management, control and use of the casino, including:

- the organisation, management and control of the gaming operations of the casino, and
- the organisation, management and control of operations (whether of the casino licensee or not) that relate to the gaming operations of the casino

Directions can be changed from time to time at the absolute discretion of the GWC. It is a condition of the casino licence that the licensee comply with any Direction, with a penalty of up to $250,000 for an offence.

It is understood that this power was included in the legislation, in part, to provide the regulator with significant power and authority to directly regulate the casino, especially when the risks of a casino operating in WA were new, largely unknown and untested.

Despite the casino being in operation for almost 40 years, the ongoing significance, risks and impact of its operation warrant the ongoing need for the regulator to have the power to exert authority over the operations and management of the casino in a swift and meaningful way when necessary.

Discussion

There are currently 40 pages of Directions issued to Crown Perth.

The Directions are not currently published publicly. This means that patrons and the public do not know what Directions the casino is subject to, how those Directions may enhance their protections, and cannot make complaints/report to the regulator if they believe the Directions have not been complied with.

The Comprehensive and flexible compliance and enforcement framework set out above provides for the regulator to have comprehensive 'cease and desist' powers which will provide the regulator with the ability to take swift and meaningful action if the casino licensee exhibits action or behaviour that needs urgent intervention.

Proposal

It is proposed that the Directions are reviewed as part of the reforms and the opportunity is taken to incorporate matters that would or should apply to any licensed casino into the legislative framework, either specifically, or by creating heads of power and prescribing those matters into the regulations under the new Act.

Once the existing Directions are reviewed and, wherever appropriate, incorporated into the new legislation, Directions should be used primarily as an interim regulatory measure, either for temporary requirements or until the requirements can be codified in the legislation if they are long term or permanent.

This approach would:

- improve Parliamentary sovereignty regarding the laws governing the casino
- increase transparency.

Chief Casino Officer

Role and function

The Chief Casino Officer ('CCO') is a statutory role currently provided for in the *Casino Control Act 1984*.

There is a broad misconception of the role and functions of the CCO. The sole function of the CCO in the statute is to consider every casino employee and casino key employee licence application and make a recommendation to the GWC as to whether to grant or refuse the application. In practice, recommendations are typically directed to departmental licensing officers who have delegated authority to determine employee and key employee licensing applications.

The current legislation does not confer the CCO with any independent decision-making authority or broader regulatory powers.

Historical background

The CCO role was added to the Casino Control Act in 1985 (the year after the Act commenced) in support of the Casino Control (Burswood Island) (Licensing of Employees) Regulations 1985 '*as, having regard to the staff and facilities otherwise available to the Commission, are necessary to provide the administrative and other services in relation to casinos*.[72]'

It is understood that this role was intended to support the operational licensing model designed to ensure that only suitable individuals and entities were authorised to work at the casino. Only a person employed by the Department of the public sector engaged to assist the GWC with regulating the casino can be appointed as the CCO. It is therefore apparent that the intent behind this role was to ensure that someone with direct, day-to-day involvement in casino regulation – who possesses detailed operational knowledge – can

[72] Casino Control Act, section 9.

provide the GWC, a body of sessional members, with informed recommendations on whether to grant employee licences. This was particularly important during the early years of casino regulation in Western Australia when probity and integrity concerns were paramount, but the landscape was unknown.

As noted by the PCRC, the legislative framework was developed without an understanding of what was required:

> *'The regulatory framework is anachronistic in that it is nearly 40 years old and was built on earlier forms of the same framework which were developed without the experience or understanding of modern casino gaming operations and the risks which they pose to the public.'*[73]

The reforms provide an opportunity to review the CCO's role and utility in the context of contemporary regulatory needs.

Policy issues

The CCO's involvement in licensing applications adds administrative burden, time and cost to the licensing process without meaningful regulatory oversight.

No other jurisdiction in Australia requires a two–party process of determining employee licence applications. The two-party process involves double-handling of work while adding little identifiable value. This suggests the role is not essential to effective casino regulation.

Options

Options are being considered to modernise the CCO's role to streamline licence applications and processes, and align the framework with contemporary regulatory needs.

Option 1: Abolish the CCO role

The new legislation could simply be drafted so that the GWC is the decision-maker, without the additional tier of assessment being codified in legislation. Compilation of applications and preliminary assessments would be done by Departmental staff, who could either be delegated to also determine the applications as they are currently, or make recommendations to the GWC for their determination. This would be consistent with all other authorisations across the gambling framework.

Option 2: Repurpose the CCO role

Alternatively, the new legislation could expand the scope of the statutory role of the CCO to include compliance or risk oversight functions. The CCO could become a decision-maker with some of the powers currently conferred on the GWC transferred to that statutory position.

[73] WA Government, PCRC, March 2022, p 9.

Proposal

It is proposed that the new legislation does not include the Chief Casino Officer role. As with all of its other duties, responsibilities and functions, the regulator will be able to determine and assign responsibilities to the most suitable position from the other available options such as a Member of the regulatory board or an employee in the Department of the public sector supporting the GWC with the administration of the legislation.

Question 19. Chief Casino Officer

A. Do you believe removing the CCO from the employee licence assessment process would compromise regulatory integrity?

B. If repurposed, what new statutory functions should the CCO be responsible for?

Section 14. Wagering operator

Recognising that the operation of the State's off-course wagering service has unique features compared to other gambling services, the new legislation will necessarily include a separate Part to specifically provide for this segment of the industry.

Subject to the **Framework** and relevant **Reform Initiatives** set out above, the laws relating to betting and wagering under the GWC Act, Betting Control Act, and RWWA Act will be transferred to the new legislation to continue operating similarly to the current regime, with the exception of the matters proposed for change below.

Operation of WA's off-course wagering service

RWWA is the principal racing authority in Western Australia. It is responsible for the governance and integrity of thoroughbred, harness and greyhound racing. Separately, WA is the only remaining jurisdiction in Australia to own the State's off-course wagering service. Each other jurisdiction has privatised the operation of their off-course wagering service provider over time.

Uniquely, however, RWWA also operates the WA TAB.

It does not do so by licence but rather, the function 'to carry on the business of operating an off-course totalisator wagering service…[and] the business of setting, accepting and making fixed odds wagers' is specified in the current legislation.[74]

In 2019, the TAB Disposal Act was passed to facilitate the sale of the WA TAB to a private operator. It established a modern licensing framework for WA TAB operations.

As the Treasurer explained in his second reading speech, the legislation represented the culmination of years of debate on the future of the Western Australian TAB with four core government objectives:

- support an independently sustainable and competitive racing industry

[74] *Racing and Wagering Western Australia Act 2003*, s.50.

- optimise value for both the State and the racing sector
- ensure the integrity of racing and wagering activities, and
- conduct a fair and robust process.[75]

Ultimately, a sale did not eventuate.

Proposal

It is proposed that, under the new legislation, RWWA become a 'wagering licensee' and continue operating the WA TAB in accordance with the key supporting and uplifted provisions for wagering operations created by the TAB Disposal Act. This will create a clearer distinction between RWWA's role as the principal racing authority and its commercial role as the operator of the WA TAB.

Benefits

This approach would:

- provide for the potential future sale of WA TAB to a private operator
- apply a framework for a wagering operator is carefully considered and contemporary
- clarify and segregate RWWA's dual roles, reducing confusion and improving transparency.

Risks

No risks have been identified with this approach.

Question 20. Deeming RWWA as a 'wagering licensee' under the new legislation

A. Do you see any risks, unintended consequences or gaps in making RWWA a 'wagering licensee' for the purposes of operating the WA TAB under a wagering licence in the new legislation?

Section 15. Bookmaking

Recognising that bookmaking has unique features compared to other gambling services, the new legislation will necessarily include a separate Part to specifically provide for this segment of the industry.

Subject to the **Framework** and relevant **Reform Initiatives** set out above, the laws relating to betting and wagering under the GWC Act, Betting Control Act, and RWWA Act will be transferred to the new legislation to continue operating similarly to the current regime.

[75] WA Legislative Assembly (2019), *Hansard*, p3366e.

Question 21. Regulation of bookmaking in WA

A. Are there any specific issues with the current regulatory regime that should be considered as part of this reform?

Section 16. Other

Question 22. Reimbursement of GST on gambling margins

A. Do you have any concerns about, or suggestions to include for, establishing GST reimbursements in the new legislation to create a statutory collection and compliance framework?

Court-siding in sports wagering

Courtsiding is the practice of using live information from a sporting event to gain a time advantage on in-play bets. A spectator either places bets directly from the venue or transmits real-time information to a third party, locking in odds before bookmakers can update the market.

Courtsiding poses significant risks to the integrity of betting. It can erode public confidence, disadvantage other bettors and reduce revenue for operators who are unable to adjust odds quickly.

In-play betting

Online in-play betting is prohibited in Australia.[76] ACMA found Tabcorp accepted 854 in-play bets across 69 tennis matches between April and October 2023.In November 2024 Tabcorp was fined $262,290 for taking online in-play sports bets.[77]

In-play betting can occur via telephone, on-course facilities, over the counter with a TAB operator or through TAB self-service terminals. In May 2025, Tabcorp was granted permission to trial live sports betting in NSW venues.[78] In the United States, in-play betting accounts for 54 per cent of Tabcorp's turnover.[79]

Legality of courtsiding in Australia

Courtsiding is not illegal in any Australian jurisdiction. It is not an unusual occurrence, with reports of courtsiders being at most major sports in recent years.[80] Spectators caught

[76] *Interactive Gambling Act 2001* (Cth), ss.10B, 15.
[77] Australian Communications and Media Authority (2024), *Tabcorp pays $262,000 penalty for illegal in-play bets*, ACMA website, accessed 27 August 2025.
[78] Drinks Trade (2025), *Tabcorp granted permission to bring live sports betting into NSW venues*, Drinks Trade website, accessed 27 August 2025.
[79] Drinks Trade (2025), *Tabcorp granted permission to bring live sports betting into NSW venues*.
[80] Sports Integrity Australia, *Courtsiding*, Australian Government, accessed 27 August 2025, p.3.

courtsiding are often removed from venues by the event organiser and banned from future events under event terms and conditions.[81]

In *Victoria Park Racing & Recreation Grounds Co Ltd v Taylor* the High Court of Australia held that broadcasting live race information does not amount to nuisance, breach of copyright or unlawful use of land.[82] The Court also held there is no proprietary right in a public spectacle.

In Victoria, using 'information that corrupts or would corrupt a betting outcome' is a criminal offence punishable by up to 10 years imprisonment.[83] In 2014, Melbourne police arrested an alleged courtsider at the Melbourne Open under this offence however charges were later dropped due to insufficient prospects of conviction.[84]

Other jurisdictions

United Kingdom

The UK Gambling Commission has indicated it does not consider courtsiding an offence of cheating under the *Gaming Act 2005* (UK) however it may breach the entry terms and conditions of a tournament or event.[85]

United States

In 2019 the New York Senate introduced a bill authorising venues to remove courtsiders but the bill did not ultimately pass.[86] Specifically, it provided:

'*(d) (i) Persons who present sporting contests shall have authority to remove spectators and others from any facility for violation any applicable codes of conduct, and to deny persons access to all facilities they control, to revoke season tickets or comparable licenses, and to share information about such persons with others who present sporting contests and with the appropriate jurisdictions' law enforcement authorities.'*

At the 2016 U.S. Open, 20 individuals were identified for courtsiding and received 20-year bans from the United States Tennis Association.[87]

Options

Options are being considered for approaches to regulate courtsiding in Western Australia in the new legislation.

[81] Sports Integrity Australia, *Courtsiding,* Australian Government, accessed 27 August 2025, p.3.
[82] *Victoria Park Racing and Recreation Grounds Co Ltd v Taylor* (1937) 58 CLR 479; [1937] HCA 45.
[83] *Crimes Act 1958* (Vic), s.195F.
[84] Sports Lawyer (2021), *Courtsiding: An Ace for the Betting Corruption Syndicate*, Sports Lawyer website, accessed 27 August 2025.
[85] UK Gambling Commission (2016), *In-play or in-running betting*, United Kingdom, accessed 27 August 2025.
[86] New York State Assembly, Bill No.S01183, United States, accessed 27 August 2025.
[87] ESPN (2017), *Man removed from US Open for courtsiding*, ESPN website, accessed 27 August 2025.

Option 1: Maintain the status quo

This option would continue to rely on event/tournament organisers and sporting bodies to eject or ban courtsiders under their entry terms and conditions.

Option 2: Prohibit courtsiding

This option would create offences for and related to courtsiding under the new legislation, with breaches punishable under the new Comprehensive and flexible compliance and enforcement framework.

Question 23. Courtsiding

A. Which of the two options above do you prefer and why?

B. What risks or unintended consequences might arise from prohibiting courtsiding?

Emerging technologies and risks

Question 24. Emerging technologies

A. Are you aware of any new or emerging technologies that the reforms should consider for the new legislation?

B. If so, what are they?

Question 25. Emerging risks

A. Are you aware of any emerging risks that the reforms should consider for the new legislation?

B. If so, what are they?

Section 17. Implementation, transitional arrangements and review

As set out in the Reform timeline section, a review and reform of this magnitude involves a number of important aspects and is likely to take approximately four to five years to complete.

The estimated timing of the broad steps are set out below:

1. **Remainder of 2025**: Review and reform consultation process.
2. **January to September 2026**: Prepare and publish Decision Regulatory Impact Statement ('DRIS'), prepare drafting instructions for Bill, and seek Cabinet approval.
3. October 2026 to October 2027: Drafting of Bill.
4. **March 2028**: Introduction of Bill into Parliament.
5. **March-August 2028**: Passage of Bill through both Houses of Parliament.

6. **Mid-2028 to late-2029**: Consultation for, preparation of drafting instructions for, and drafting of, Regulations and other subsidiary instruments.
7. **Early-2029 to mid-2029**: Implementation period - Industry prepare to comply with the new legislation, Department and the regulator prepare to implement and operationalise the new legislation, including the development of forms, guides, procedures, systems.
8. **Mid-2030**: Legislation takes effect.
9. These timeframes are **indicative only**, and subject to change on the basis of drafting resources, Parliamentary schedules and other unforeseen or unavoidable circumstances.

Implementation

Once the Bill has been passed by both Houses of Parliament and all of the new regulations and other subsidiary legislation has been drafted, industry will be provided with a transition period of approximately 6 months to prepare to comply with the new legislation, after which the new laws will come into effect.

Transitional arrangements

The new legislation will make arrangements to 'transition' certain matters from the old legislation framework into the new regime to:

- ensure continuity and legal certainty during the implementation of new laws
- clarify how existing rights, obligations, approvals, or procedures will be treated under the new regime
- minimise disruption or unintended consequences for individuals, businesses, or government entities affected by the changes.

It is expected that, as a minimum, the following approved authorisations, instruments and other matters will automatically transition, or 'grandfather' into the new laws:

- all licences, permits, authorisations in effect on the day before the new legislation comes into effect, that have a period of authorisation/validity that includes or goes beyond the day the new legislation commences
- casino Directions, manuals, employee ID badges approved/in effect on the day before the new legislation commences
- Rules of Wagering
- various other matters 'on foot' – complaints, prosecutions, appeals, infringements, licence/permit applications.

Additionally, subject to the outcome of the proposal regarding the Wagering operator set out above, and subject to RWWA still operating the WA TAB, the transitional arrangements will provide that RWWA becomes the wagering 'licensee'.

Statutory review

It is current best practice for legislation to include a statutory review after a set period (usually five years).

List of Questions

Appendices

Attachment 1 – PCRC recommendations requiring legislative change

The PCRC makes recommendations, related to enhancements of the regulatory framework, that:

14 The *Casino Control Act 1984* (WA) be replaced by a new Act and a revised Gaming and Wagering Commission Act (if required) containing all matters relating to the regulation of licensed casinos in Western Australia and the composition and structure of the regulator, as set out in Chapter Fifteen: Enhancements to the Regulatory Framework.

15 The new Act and revised legislation:

a. contain an objects clause, including the three objectives of casino regulation;

b. contain a duties clause including the following duties:

i. the regulation of the identified extant and emerging risks in the Bergin Inquiry and PCRC;

ii. the ongoing identification of strategic risks;

iii. ensuring that the licensee is identifying and mitigating the extant and emerging risks of casino gaming;

iv. ensuring that the licensee is mitigating gambling-related harm;

v. the investigation of suspected breaches and enforcement of breaches of the regulatory framework;

vi. ensuring the integrity of casino gaming operations;

vii. ensuring the probity and suitability of those engaged in casino gaming operations;

viii. prevention of criminal infiltration including money laundering;

ix. impose a duty on the casino licensee to take reasonable steps to mitigate gambling-related harm; and

x. collaboration with State and Territory authorities to mitigate the risk of criminal infiltration and criminal activity associated with casino operations.

c. contain a list of the regulator's powers including the capacity for the regulator to identify and regulate emerging risks which may arise in future, as it sees fit;

d. retain the Minister's powers in the Casino Control Act including to approve foreign ownership, grant a casino licence, revoke a casino licence or impose conditions on a casino licence;

e. retain the investigative and enforcement powers of the regulator in the Gaming and Wagering Act;

f. retain the requirement that the regulator is financially resourced from levies, such as the casino tax and licence fee, supplemented by direct funding from government appropriations if necessary;

g. contain a requirement for periodic reviews of a casino licence by the regulator at least every five years, with the review to be tabled in Parliament;

h. contain the matters which the regulator must take into account in reviewing the casino licence should be included in amending legislation;

i. contain a definition of or guidance as to what it means to be a suitable licensee and a suitable close associate of the licensee;

j. contain a requirement on the regulator to submit its independent report to the Minister on any occasion that a decision to grant a casino licence, revoke a casino licence or impose a new condition on a casino licence is to be made by the Minister,

k. contain a requirement that a report submitted by the regulator to the Minister as required by the previous recommendation is to be tabled in Parliament;

l. contain a requirement that the Minister table in Parliament an explanation for not accepting a recommendation of the regulator contained in its report;

m. prohibit junkets, unless authorised and individually licensed by the regulator;

n. contain a requirement that the regulator consider the obligation to minimise gambling-related harm when determining:

i. whether to declare a game as authorised;

ii. whether to approve rules; and

iii. whether to amend those rules;

o. require the casino licensee to devise a responsible service of gaming code;

p. require that the responsible service of gaming code be submitted to the regulator for review;

q. empower the regulator to issue directions that prescribe requirements or objectives for the casino licensee’s responsible service of gaming code;

r. empower the regulator to issue fines in respect of contraventions of the responsible service of gaming code;

s. require the regulator to have regard to the casino licensee’s compliance with the responsible service of gaming code in its review of the suitability of the licensee;

t. require that the responsible service of gaming code be periodically reviewed by the casino licensee at an interval determined by Parliament;

u. require the casino licensee to provide written notice to the regulator if the licensee or an associate breaches or is likely to breach, in a material way, the regulatory framework, the responsible gaming code of conduct, the casino licensee's system of internal controls and administrative and accounting procedures, certain agreements to which the casino is a party including the State Agreement and any direction given to or recommendation made to the casino by the regulator;

v. contain an expanded directions power that includes the power to make directions as to:

i. all operations of the Perth Casino, not just gaming operations;

ii. any reasonable regulatory measure or requirement;

iii. the Perth Casino's controls and procedures; **[Note: (i), (ii) and (iii) implemented by *Casino Legislation Amendment (Burswood Casino) Act 2022* – will carry over to new legislation]**

and

iv. the regulator's power to engage at the casino licensee's cost, on the terms and conditions approved by the regulator, a person approved by the regulator to inquire into and report to the regulator on any matter relevant to the performance of the regulator's functions in relation to the casino licensee, its associates or the conduct and organisation of casino operations;

w. provide that any direction given by the regulator binds the licensee and any person or entity concerned in the organisation and conduct of casino gaming operations; **[Note: Implemented by *Casino Legislation Amendment (Burswood Casino) Act 2022* – will carry over to new legislation]**

x. provide that the licensee be strictly liable as a party to a breach of a direction by any person subject to that direction;

y. provide that an independent gambling research and advisory body (Independent Advisory Body) be established to replace the Problem Gambling Support Services Committee;

z. provide that the Independent Advisory Body be funded by a levy imposed upon the gambling industry;

aa. provide that the Independent Advisory Body receive administrative support from an established government agency or department, in a model similar to the support provided to Drug Aware by the Mental Health Commission; and

ab. provide that the appropriate functions of the Independent Advisory Body include, as a minimum, responsibility for undertaking research into gambling prevalence and the effectiveness of harm reduction measures in Western Australia.

16 Consideration be given to whether or not the statutory prohibition of poker machines should be maintained. **[Note: Current proscription will be reflected in new legislation]**

17 If it is determined that the prohibition should be maintained, or that it should be replaced with a prohibition of some other type(s) of games or gaming machines, consideration be given to defining poker machine or providing statutory guidance on its meaning so that what is prohibited can be readily ascertained. **[Note: N/A]**

18 In defining a poker machine or providing guidance on its meaning, regard be had to likely future technological advancements in games and gaming machines.

19 If it is determined that the prohibition should be changed, such that New Style electronic gaming machines (or spinning reel machines) are to be permitted at Perth Casino, consideration be given to the imposition of controls to minimise the risk of gambling-related harm that New Style EGMs pose. **[Note: N/A]**

20 There be a review of the penalties for regulatory offences, and that in most cases, those penalties should be increased. In respect of the penalties for offences relating to the conduct of casino gaming and casino operations by the casino licensee, those penalties be increased very substantially. **[Note: Penalties increased by *Casino Legislation Amendment (Burswood Casino) Act 2022* and *Gambling Legislation Amendment Act 2024* – will carry over to new legislation]**

21 The regulator be given the power to recover its reasonable costs and expenses of investigation and enforcement action taken against the licensee.

22 The regulator has, as a minimum, the following employees:

a. a full time Chief Executive Officer who is also the Chief Casino Officer, who shall attend and report to the regulator at each monthly meeting on all matters within the Gaming and Wagering Commission's remit;

b. a Chief Financial Officer solely dedicated to the work of the regulator;

c. an administrative/executive assistant with regulatory experience (such as a policy officer) to support the Chief Executive Officer, Chief Financial Officer, and regulator members, lessening any requirement for assistance from a government department;

d. any other necessary employees such as inspectors or experts for the provision of advice or training retained on a contract basis.

23 The casino regulator be the employing authority pursuant to Part 3 of the *Public Sector Management Act 1994* (WA) for the Chief Casino Officer, Chief Financial Officer and other dedicated casino regulation staff or if another person or body appoints the Chief Casino Officer, Chief Financial Officer or other dedicated casino regulation staff, that the appointment be made only with the approval of the casino regulator.

24 The regulator's Chief Casino Officer, the Chief Financial Officer and other dedicated casino regulation staff be accountable to the casino regulator for casino regulation activities.

25 Only the casino regulator be able to direct the Chief Casino Officer, the Chief Financial Officer and other dedicated casino regulation staff to perform their casino regulation activities.

26 The chair of the regulator:

a. be independent of the Department;

b. be appointed by the Minister;

c. have sound governance and (or) regulatory skills and experience; and

d. have a fixed term of no more than five years. **[Note: Implemented by *Casino Legislation Amendment (Burswood Casino) Act 2022*]**

27 The deputy chair of the regulator be elected by the board members from among their number. **[Note: Implemented by *Casino Legislation Amendment (Burswood Casino) Act 2022*]**

28 There be criteria for the appointment of regulator board members to ensure that the appointments are appropriately skilled for regulating gambling and casino gaming in Western Australia.

29 The regulator be required to provide advice to the Minister about particular skills or experience, not referred to in the criteria, that the Commission requires and may be provided by future members.

30 The definition of close associate or associate be amended so that it means:

a. the holding company and each intermediate holding company of the casino licensee (holding company to be defined as in the *Corporations Act 2001* (Cth);

b. any person who has a relevant interest (as defined in the Corporations Act) in at least 10 per cent of the issued capital of the casino licensee, or any of its intermediate holding companies or its ultimate holding company;

c. any director or officer (as defined in the Corporations Act) of the casino licensee, any of its intermediate holding companies or its ultimate holding company; and

d. any individual or company certified by the regulator to be an associate.

31 The casino regulator's delegation powers be reviewed to determine if they are too broad.

35 Pending the enactment of the new act and revised legislation:

a. the Director General of the Department be replaced as *ex officio* chair of the Gaming and Wagering Commission by a person who is independent of the Department; **[Note: Implemented by *Casino Legislation Amendment (Burswood Casino) Act 2022*]**

b. a new deputy chair be elected from among the Gaming and Wagering Commission's members to replace the existing deputy chair; **[Note: Implemented by *Casino Legislation Amendment (Burswood Casino) Act 2022*]**

c. the funds of the Gaming and Wagering Commission be administered separately to those of the Department; **[Note: Implemented administratively in part and by *Gambling Legislation Amendment Act 2024* – will carry over to new legislation]**

d. there be a general review of the scope and operation of s 21A and s 21B of the Casino Control Act;

e. consideration be given to removing the exception for advertising to existing patrons from the advertising prohibition in reg 43 of the *Gaming and Wagering Commission Regulations 1988* (WA);

f. the *Casino Control Act 1984* (WA) be reviewed for references to casino licensee, manager and similar terms and amendments be made to clarify whether and to what extent provisions apply exclusively to the licensee or, more broadly, to associates of the licensee involved in the licensee's conduct and organisation of casino operations;

g. provisions of the Casino Control Act be reviewed for terms which could be construed as containing a geographical or location requirement which is inappropriate;

h. the definition of 'casino key employee' in s 3 of the Casino Control Act be reviewed and expanded, if necessary to include employees of entities associated with the licensee who provide centralised services to Perth Casino regardless of their physical location;

i. any reference to 'Genting WA' in the regulatory framework be removed;

j. references to 'operator' be removed from the regulatory instruments unless the position has some meaning and purpose;

k. the definition of 'gaming' and 'gambling' be clarified so as to include casino gaming in all relevant definitions;

l. the *Casino (Burswood Island) Agreement Act* 1985 (WA) be amended so that the meaning of the term 'relevant interest' is consistent throughout the legislation;

m. the exclusion provisions in the Casino Control Act be reviewed, including whether penalties for patrons in contravention of an NRL or other exclusion order made by the casino licensee should be increased;

n. the penalty for a breach of reg 15(3) of the *Casino (Burswood Island) (Licensing of Employees) Regulations* 1985 (WA) is the same as the penalty for breach of reg 16A of those regulations; and

o. that reg 7(3) of the *Casino (Burswood Island) (Licensing of Employees) Regulations* 1985 (WA) be amended to confer upon the Chief Casino Officer a discretion to request an investigation by Western Australian Police (WAPOL) into the character and (or) suitability of an applicant for the renewal of a licence and to empower WAPOL to so investigate.

44 The imposition of appropriate and meaningful sanctions if Perth Casino breaches a requirement of the EGM Scheme.

If IAB is a statutory body

The PCRC makes recommendations, related to the activities of the Independent Advisory Body that:

56 The Independent Advisory Body, in consultation with the Gaming and Wagering Commission and Perth Casino, be responsible for the establishment and maintenance of a repository containing data collected by Perth Casino.

57 The Independent Advisory Body be required to:

a. identify the data to be included in the repository; and

b. ensure the data is up-to-date and comprehensive.

58 The Independent Advisory Body, in consultation with the Gaming and Wagering Commission and Perth Casino, be required to carry out the following tasks:

a. oversee the design and structure of the repository and its user interface;

b. identify the data that is to be publicly available and the data that will have restricted access;

c. ensure processes and procedures are put in place for the efficient maintenance and updating of the repository;

d. establish protocols to anonymise data to respect the privacy of gamblers;

e. establish a register of recognised researchers; and

f. establish a simple process by which a request for data is to be made.

59 To the extent possible, anonymised data that is suitable to be made publicly available be made available for general public inspection via an information website.

Attachment 2 – Excerpts from *Vulnerabilities of Casinos and Gaming Sector* (FATF Report).

(Vulnerabilities of Casinos and Gaming Sector – March 2009 © 2009 FATF/OECD and APG)

73. [Money Laundering]ML/[Terrorism Funding]TF is one aspect of criminal risk. Risk assessments of the casino sector may look at broader risks including organised crime, loan sharking, prostitution, drug dealing, human trafficking etc.

86. … casinos conduct financial activities akin to financial institutions including: accepting funds on account; conducting money exchange; conducting money transfers; foreign currency exchange; stored value services; debit card cashing facilities, cheque cashing; safety deposit boxes; etc. In many cases these financial services are available 24 hours a day.

87. It is the variety, frequency and volume of transactions that makes the casino sector particularly vulnerable to money laundering. Casinos are by nature a cash intensive business and the majority of transactions are cash based. During a single visit to a casino a customer may undertake one or many cash or electronic transactions, at either the 'buy in' stage, during play, or at the 'cash out' stage. It is this routine exchange of cash for casino chips or plaques, TITO tickets, and certified cheques, as well as the provision of electronic transactions to and from casino deposit accounts, casinos in other jurisdictions and the movement of funds in and out of the financial sector, which makes casinos an attractive target for those attempting to launder money.

94. Casinos are attractive venues for criminals. Casinos are consistently targeted by criminals for criminal influence and criminal exploitation. Organised crime groups seek to control or own casinos or aspects of casino operations. Criminals attempt to infiltrate or influence casinos to facilitate theft, fraud, money laundering and other crimes.

96. Criminal influence and exploitation of casinos appears to be both for possible money laundering, but also for recreation and in some cases enhancing their criminal endeavours outside the casino. Casinos have been noted as a place where criminals and organised crime figures like to socialise and particularly like to spend and launder their criminal proceeds.

97. Feedback from police also indicates that large casinos with sophisticated security and surveillance systems may be viewed by criminals as providing a safe haven to meet and associate in without fear for their personal safety.

98. Gaming venues attract ancillary criminal activities including loan sharking, vice and other crimes.

153. A vulnerability of junket programmes is that they involve the movement of large amounts of money across borders and through multiple casinos by third parties. Junket participants generally rely on the junket operators to move their funds to and from the casino. This creates layers of obscurity around the source and ownership of the money

and the identities of the players. This is made more difficult if the junket operator is complicit in any money laundering activity by the players, or is solicited by criminals to blend illicit funds with the pool of legitimate funds.

155. Junket operators may use wire transfers to move funds on behalf of clients. The identity of the junket patrons may be unknown to the sending and receiving financial institution or the receiving casino.

158. In cases where junket operators are strongly regulated, jurisdictions require junket operators to be vetted, licensed and operate according to regulations; some with specific AML/CFT controls that compel junket operators to report suspicious transactions by its players. In addition some legal frameworks place the responsibility for junket activities on the casino operator, with their license [sic] at risk if players‟ funds are found to be unlawful. Strong regimes oblige the casino operators to report any suspicion that a junket promoter may be involved in illegal activity.

211. A number of jurisdictions that allow junket play do not require registration/licensing and regulation of junket organisers and their agents. The vulnerabilities identified in the previous section raises concerns about the need to ensure that junkets and their agents are not under criminal control/influence and to ensure that financial transactions are transparent and subject to relevant AML/CFT measures.

225. Precluding criminal involvement in casinos and gambling involves addressing both criminal influence and criminal exploitation. Successfully minimising criminal influence of casino operations is dependent upon a licensing and regulatory regime to preclude criminal involvement in the management and operation of casinos and effective preventative measures to detect ML and TF. A number of jurisdictions have struggled to establish an appropriate casino management compliance culture, including for AML/CFT.

226. Persons with large amounts of disposable cash are attractive customers casinos and this makes it imperative that the operator has not only integrity but a commitment to preserving a crimefree environment. Importantly commercial reward systems often provide bonuses or remuneration for ‘middle management’ based on revenue-based performance criteria. These may not take into account the protection of the primary asset (the casino licence) and unless an appropriate management culture is in place within the operator these may work against maintaining a crime-free environment.

227. There is a need for greater cooperation between AML/CFT regulators and enforcement agencies and the front line compliance staff within casinos who are responsible for AML/CFT regulation within casinos.

Attachment 3 – Casino Control Act s.25A

25A. Junkets and junket operators, regulations about

(1) Regulations made under section 37 may make provision for or with respect to regulating or prohibiting —

(a) the conduct of junkets; and

(b) the offering to persons of inducements, whether in the form of rebates or commissions or otherwise, to conduct or participate in junkets.

(2) Without limiting subsection (1), the regulations may —

(a) impose restrictions on who may conduct junkets or offer inducements; and

(b) require a person to be approved by the Commission before the person may conduct junkets; and

(c) require a person to provide information and documents to the Commission, including photographs, fingerprints and palm prints, for the purposes of being approved by the Commission to conduct junkets; and

(d) require the person who conducts a junket, or a casino licensee, to give advance notice of the junket to the Commission and to provide to the Commission detailed information concerning the conduct of, and the arrangements for the conduct of, the junket; and

(e) require any contract or other agreement that relates to the conduct of a junket or the offer of an inducement to be in a form, and contain provisions, approved by the Commission; and

(f) require the person who conducts a junket, or a casino licensee, to give specified information concerning the conduct of the junket to participants in the junket.

(3) In this section —

junket means any arrangement for the promotion of gaming in a licensed casino by groups of persons, usually involving —

(a) payment by the casino licensee of a commission to the person who conducts the junket; and

(b) arrangements for the provision of transport, accommodation, food, drink and entertainment for the participants in the arrangements, some or all of which are paid for by the casino licensee or are otherwise provided on a complimentary basis.

[Section 25A inserted: No. 24 of 1998 s. 21.]

Glossary

Term	Meaning/Definition
ACL	*Australian Consumer Law*
ACMA	Australian Communications and Media Authority – Commonwealth agency established under section 6 of the *Australian Communications and Media Authority Act 2005*
AML	Anti-money laundering
AML/CTF	Anti-Money Laundering and Counter-Terrorism Financing
AML/CTF Act	*Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth)
APG	Asia Pacific Group on Money Laundering is an autonomous and collaborative international organisation
ASIC	Australian Securities and Investments Commission
AUSTRAC	Australian Transaction Reports and Analysis Centre – Commonwealth agency responsible for administering the AML/CTF Act
Authorisation	For the sake of simplicity, and to avoid any predetermination of the future structure or terminology, the term 'authorisation' is used throughout this Consultation Paper to refer to any (past or future) type of regulatory authorisation such as a licence, authorisation, permit, certification, or approval.
Bergin Inquiry	The inquiry by the Honourable PA Bergin SC under s.143 of the *Casino Control Act 1992* (NSW), established on 14 August 2019.
Betting Control Act	*Betting Control Act 1954*
Betting Control Board	GWC predecessor responsible for the regulations of wagering in Western Australia
Bill	A formal proposal for a new law, or a change to an existing law, that is presented to Parliament for consideration. Once a Bill is passed and receives assent, it becomes an Act of Parliament.
Burswood Casino	The casino in respect of which a casino gaming licence has been granted under s 21 of the *Casino Control Act 1984* (WA). Also referred to as 'Perth Casino'. Defined in the PCRC Terms of Reference gazetted on 12 March 2021 as 'Crown Casino Perth'.
Casino Control Act	*Casino Control Act 1984*
CBIA Act	*Casino (Burswood Island) Agreement Act 1985*
CCO	Chief Casino Officer appointed under section 9 of the Casino Control Act

CRIS	Consultation Regulatory Impact Statement
Crown Perth	Crown Perth means Burswood Nominees Ltd the trustee of the Burswood Property Trust and holder of the casino gaming licence in respect of which a casino gaming licence has been granted under s 21 of the *Casino Control Act 1984* (WA).
CTF	Counter-Terrorism Financing
Department	Department of Local Government, Industry Regulation and Safety, formerly Department of Local Government, Sports and Cultural Industries, formal Department of Racing, Gaming and Liquor.
Direction	Refers to the power of the GWC to issue a binding Direction under section 24 of the Casino Control Act.
DRIS	Decision Regulatory Impact Statement
EGM	Electronic Gaming Machine
FATF	The Financial Action Task Force is an independent inter-governmental body that develops and promotes policies to protect the global financial system against money laundering and terrorist financing.
FATF Report	'Vulnerabilities of Casinos and Gaming Sector Report (March 2009)' prepared by the APG/FATF considers casinos with a physical presence and discusses related money laundering and terrorist financing methods, vulnerabilities, indicators to aid detection and deterrence, international information exchange
FATGs	Fully Automated Table Games
Gaming Commission	GWC predecessor responsible for the regulation of gambling in Western Australia
Gaming Commission Act	*Gaming Commission Act 1987*
Gaming Machine National Standards	The Australian/New Zealand Gaming Machine National Standard 2016
GST	Goods and Services Tax
GWC	Gaming and Wagering Commission (referred to as 'the Commission' in excerpts from the PRCR Report)
GWC Act	*Gaming and Wagering Commission Act 1987*
GWC Regulations	Gaming and Wagering Commission Regulations 1988
Interactive Gambling Act	*Interactive Gambling Act 2001* (Cth)
KYC	'Know Your Customer' requirements under the AML/CTF Act, for detecting, deterring and disrupting financial crime. For individual customers, this information includes, as a minimum requirement, their full name as well as either their residential address or date of birth.

	For customers who aren't individuals, reporting entities must collect information to be reasonably satisfied the customer actually exists. For example, if the customer is a company in Australia they must collect and verify information including the full name of the company, whether it is registered with the ASIC as a public or proprietary company, and its Australian Company Number (ACN) or Australian Registered Body Number (ARBN).
LGIRS	Department of Local Government, Industry Regulation and Safety, the department principally assisting the Minister for Racing and Gaming in Western Australia
Licensing of Casino Employees Regulations	Casino Control (Burswood Island) (Licensing of Employees) Regulations 1985
Lotteries Commission Act	*Lotteries Commission Act 1990* (WA)
Lotterywest	Trading as Lotterywest, the Lotteries Commission is a body corporate constituted under the *Lotteries (Control) Act 1954* (repealed) and continued in existence under the Lotteries Commission Act
ML	Money laundering
PCRC	Perth Casino Royal Commission
PCRC Report	Report of the Perth Casino Royal Commission delivered on 4 March 2022
Perth Casino	The casino in respect of which a casino gaming licence has been granted under s 21 of the *Casino Control Act 1984* (WA), described in the State Agreement as 'Burswood Casino'. Defined in the PCRC Terms of Reference gazetted on 12 March 2021 as 'Crown Casino Perth'.
RBL Act	*Racing Bets Levy Act 2009*
RBL Regulations	Racing Bets Levy Regulations 2009
Rules of Wagering	Rules of Wagering 2005
RWWA	Racing and Wagering Western Australia
RWWA Act	*Racing and Wagering Western Australia Act 2003*
RWWA Regulations	Racing and Wagering Western Australia Regulations 2003
SAT	State Administrative Tribunal
SAT Act	*State Administrative Act 2004*
State Agreement	Casino (Burswood Island) Agreement set out in Schedule 1 of the CBIA Act and altered from time to time by any Supplementary Agreements
TAB	Totalisator Agency Board, the state's off-course wagering service provider prior to the enactment of the RWWA Act

TAB Disposal Act	*TAB (Disposal) Act 2019*
TF	Terrorism Funding
TITO	Ticket in ticket out, is a technology used in modern EGMs in which the machine pays out the player's money by printing a barcoded ticket rather than dispensing coins or tokens.
TPSP	Third party service providers i.e. 'intermediary, 'ancillary,' or 'third-party' service providers
Treasury	Department of Treasury and Finance
Turner Report	***Turner Report (2000) – a report initiated by the State Government to review of the racing industry in Western Australia***
WA Appendix	The Western Australian appendix to the Australian/New Zealand Gaming Machine National Standard 2016
WA TAB	Western Australia's off-course wagering service provider, operated by RWWA conducting wagering activities under the TAB and TABtouch brands as the primary and online brands respectively

End notes

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[xxi] Royal Commission on Betting (1959), *Report of the Royal Commission on Betting*, p.24.
[xxii] Royal Commission on Betting (1959), *Report of the Royal Commission on Betting*, p.49
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