

CASINO CONTROL AMENDMENT BILL 2023
STATEMENT OF PUBLIC INTEREST

Tabled, by leave,

Ms Shepe

Staffell
for

Clerk of the Parliaments

28 / 11 / 23

Need: Why is the policy needed based on factual evidence and stakeholder input?

The Bill clarifies that any legislation to override terms of a commercial agreement between the government and a casino and their announcement or other action taken in relation to that do not give rise to compensation from either casino.

The Bill also authorises the Treasurer to enter into a jobs guarantee agreement with a casino operator other than the Crown casino. This is necessary because the Treasurer's powers under the *Casino Control Act 1992* are currently limited to matters concerning duties and levies. The jobs guarantee agreement will be enforced through financial penalties to ensure that jobs under the guarantee are safeguarded.

The current operation of section 35 of the Act imposes an unreasonable and unnecessary burden on a casino's close associates who hold, or are eligible to be granted, an exemption under section 42A of the Act. Exempt close associates are persons who are associated with a casino but considered to have no, or a limited degree of, control or influence over the casino's operations. Section 42A of the legislation currently allows the NSW Independent Control Commission (NICC) to exempt them from the requirement for formal regulatory approval. However, a person becoming a close associate continues to be considered a 'major change' under section 35 of the Act, which still requires the NICC to be satisfied that the person is a suitable person and undergo an onerous probity assessment.

The Bill rectifies this inadvertent omission in the Act and harmonises the two provisions by ensuring a major change involving a person becoming a close associate can be approved if the close associate holds, or is eligible for, an exemption under section 42A. The amendment responds to concerns raised by casino operators about the unreasonable and unnecessary regulatory burden on their exempt close associates.

Objectives: What is the policy's objective couched in terms of the public interest?

The amendment to section 156 clarifies the definition of regulatory action for the purpose of removing the right of casinos to receive compensation for regulatory changes made by the Government. This ensures that the Parliament and the NICC have sufficient powers to regulate casinos and the Government has flexibility to adjust the terms of commercial agreements consistent with the public interest.

The amendment of section 35 of the Act removes the current inconsistency between close associate provisions in the Act and removes any unintended consequences of the current wording of section 35.

There is a strong public interest in ensuring the efficient use of funding and resources for regulatory activities. The amendment rightly ensures that the complex and resource-intensive probity assessments for a casino's close associates are only applied for those who have some degree of control or influence over the casino's operations.

Tabled, by leave.

Clerk of the Parliaments

8

8

Options: What alternative policies and mechanisms were considered in advance of the bill?

The Government created provisions last year to remove the rights to compensation for taking proper regulatory action. The proposed amendments are the only way to make clear the intended purpose of the legislation.

Including provisions that authorise the Treasurer to enter into a jobs guarantee and apply penalties for failure to meet the jobs guarantees has been identified as the only means required to enforce the penalties agreed in the in-principle agreement between The Star and the Government.

Amendment of the Act has been identified as the only means of removing the need for probity reviews in relation to close associates who hold a section 42A exemption, as the relevant requirements are specified in the Act rather than any subordinate instruments.

Analysis: What were the pros/cons and benefits/costs of each option considered?

The authority to enter into an agreement for a jobs guarantee and to enforce penalties for failure of The Star to meet the guarantee enables the Treasurer to make arrangements that will protect thousands of NSW jobs. Without this legislative authority there would be no effective mechanism for the Government to enforce the agreement which would put 3,000 jobs at risk.

The amendment of section 35 of the Act will significantly reduce the regulatory resources required to assess a major change involving a person becoming a close associate, where the close associate is eligible for an exemption under section 42A.

The amendment will also lift an unnecessary regulatory burden on casino operators and their close associates who are eligible for an exemption.

Pathway: What are the timetable and steps for the policy's rollout and who will administer it?

The amendment to section 156 of the Act is intended to take effect as of 5 September 2022. This makes it clear it is meeting the objectives of the original legislative amendments.

The Bill will authorise the Treasurer to enter into a jobs guarantee agreement with The Star casino. The Treasurer intends to finalise this agreement by the end of the year. Treasury will be responsible for administering the jobs guarantee.

The amendment to section 35 of the Act is intended to take effect immediately.

Consultation: Were the views of affected stakeholders sought and considered in making the policy?

The Government has negotiated extensively with The Star over the terms of an in-principle agreement for a Jobs Guarantee. The Star is aware of the need for legislative support for the agreement.

Both casino operators have been consulted on the issue affecting close associates holding an exemption under section 42A of the Act. Both are aware and support the legislative amendment to rectify the issue.