

1994

LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

BOOKMAKERS (AMENDMENT) BILL (NO. 2) 1994

EXPLANATORY MEMORANDUM

Circulated by Authority of David Lamont MLA

Minister for Sport

General Outline

The *Bookmakers Act 1985* (the Act) provides for the licensing and control of bookmakers. The Act was recently amended to provide for on-course telephone betting.

It is proposed to further amend the Act to provide for the introduction and control of sports betting in the ACT.

It is proposed to enable sports bookmakers to take bets on a wide range of events including rugby league, Australian rules, golf, cricket and athletics. It is also proposed to allow bets to be taken on other events such as elections. The events would be determined by the Minister.

To ensure that the sports betting arrangements are properly regulated there will be separate licensing and approval arrangements for sports bookmakers. Licensed bookmakers will be able to operate as sports bookmakers as well. Only licensed bookmakers will be eligible to apply for a sports betting licence, although syndicates and companies are capable of operating as a sports bookmaker.

Only a limited number of sports betting licences will be issued. This recognises the fact that the costs to establish and run such an arrangement are substantial. There are also few who would have the necessary specialised knowledge and expertise in this field.

Because sports bookmaking often involves bookmakers accepting and incurring liabilities over a longer time frame the issue of security of performance guarantees has been addressed. This will be included as part of the requirements for a person being considered suitable to hold a sports betting licence.

As sports betting will offer services in a wide range of events, both national and international, the betting service will need to be available to punters on a continuous basis. Accordingly, it is proposed to locate the sports betting service within a Betting Auditorium. The Auditorium would also provide a regulated environment where the activities of the sports bookmakers could be controlled and open to scrutiny. The operation of the Auditorium, such as opening times, would be subject to control.

Where there is a dispute between the sports bookmaker and the person who made the bet a dispute mechanism is proposed. The first step of the process is to refer a claim to the Registrar of Bookmakers for a decision. The Registrar's decision can be reviewed by a Sports Betting Disputes Subcommittee.

Financial Implications

The introduction of a sports betting service in the Territory could generate significant revenue for the Territory.

The cost of ensuring the integrity of the services provided in the Auditorium will be met by Government.

Clause Notes

Clauses 1, 2 and 3

Clauses 1, 2 and 3 are 'mechanical' clauses which specify the short title, the commencement of the Bill and the Principal Act.

Clause 4 – Interpretation

Clause 4 amends section 3 of the Principal Act. Section 3 defines terms for the purposes of the Principal Act.

Clause 4 amends the definition of 'bet' by including 'a sports betting event'. Clause 4 also inserts a number of definitions that are necessary for the control of sports betting, including 'security guarantee', 'sports bet', 'sports betting event', 'suitability requirements' and 'syndicate'.

Clause 5 – Substitution

Clause 5 repeals section 7 of the Principal Act and substitutes another section. Section 7 sets out the functions of the Bookmakers Licensing Committee (the Committee).

The substituted section 7 provides that the functions of the Committee are to:

- (a) consider and determine applications and other matters relating to licences; and
- (b) as the Sports Betting Disputes Subcommittee, consider and determine applications for the review of directions by the Registrar on disputed claims [section 39ZG].

Clause 6 – Membership

Clause 6 amends section 9 of the Principal Act. Section 9 establishes the membership of the Committee, with some members being nominated by various bodies.

Clause 6 amends section 9 by substituting '7' part-time members instead of '5'. Paragraph 9(1)(a) is also amended to provide that 3 members of the Committee shall be nominees of the Minister. Presently, paragraph 9(1)(a) provides that one member of the Committee shall be a public servant.

Subclause 6(2) provides that the public servant appointed to the Committee immediately before this section commences is taken to be one of the Ministerial nominees.

Clause 7 – Substitution

Clause 7 repeals section 10 of the Principal Act. Section 10 provides that the person appointed under paragraph 9(1)(a) shall be the Chairman of the Committee, presently a public servant.

The new section 10 provides that the Minister shall appoint one of the persons appointed under paragraph 9(1)(a) to be Chairperson of the Committee.

Section 10(2) provides that the person who was Chairman of the Committee, immediately before this section commences, is to be taken to be appointed as the Chairperson of the Committee on and from that date.

Clause 8 – Termination of appointment

Clause 8 amends section 12 of the Act. Section 12 provides for the termination of the appointment of members to the Committee. Clause 8 amends subsections 12(1) and (2) by omitting 'the member referred to in paragraph 9(1)(a)' and substituting 'a public servant'.

Clause 9 – Meetings

Clause 9 amends section 14 of the Principal Act. Section 14 establishes procedures for the conduct of meetings held by the Board.

Clause 9 amends section 14 by replacing the reference to 'Chairman' with 'Chairperson' and by defining the term 'quorum' in subsection 14(4).

Clause 10 – Powers of entry – betting venues

Clause 10 amends section 18 of the Principal Act. Section 18 sets out the powers of entry that are available to the Registrar, or an inspector, for the purposes of entering a racecourse to ensure the provisions of the legislation are complied with.

Section 18 is amended to broaden its application. Instead of being confined to 'a race meeting being held at a racecourse', subsections 18(1) and 18(2) will now apply to 'a betting venue' at which a betting event is being conducted.

Subsection 18(3) defines the terms 'betting event', 'betting venue' and 'bookmaker' for the purposes of section 18.

Clause 11 – Suspension and cancellation of standing licences

Clause 11 amends section 33 of the Principal Act. Section 33 provides that the Committee can cancel a standing licence.

Clause 11 inserts a new subsection 33(1A). The new subsection will provide that where the Committee cancels a sports betting licence held by a standing licensee, or by a syndicate or company, the Committee may suspend the standing licence for a period or cancel the licence.

Clause 12 – Insertion

Clause 12 inserts a new Part after section 39 of the Principal Act.

PART IIIA – SPORTS BETTING

Division 1 – General

Section 39A – Sports betting events

Section 39A provides that the Minister may, by instrument, determine a sporting or other sporting event to be a sports betting event. The instrument shall be a disallowable instrument [subsection 39A(2)].

Section 39B – Sports betting venues

Section 39B provides that the Minister may determine a place where a sports betting venue can operate and determine directions for its operation [subsections 39B(1) and (2)]. In both cases, the determination is a disallowable instrument [subsection 39B(3)].

Section 39C – Rules for sports betting

The Minister may, under section 39C, determine or vary rules for sports betting, including:

- . methods of betting, including the use of telecommunications equipment;
- . minimum bets;
- . requirements for giving security to cover bets;
- . keeping of records in relation to sports betting; and
- . audits of sports betting licensees [subsection 39C(2)].

A determination under subsection 39C(1) is a disallowable instrument.

Subsection 39(4) defines the term 'sports betting licensee' for the purposes of this section.

Division 2 – Sports betting licences

Section 39D – Number and class of licences

Section 39D provides that the Minister may determine the maximum number of licences that can be granted by the Committee and the maximum number that can be granted to individuals, syndicates and companies. The determination is a disallowable instrument [subsection 39D(2)].

Section 39E – Application

Section 39E specifies who can apply for each category of a sports betting licence being individual bookmakers. The applicant must hold a standing licence and not already hold a sports betting licence or a sports betting agent's licence. For

syndicates, each member must hold a standing licence and none must hold a sports betting licence or sports betting agent's licence. For a company, one of the directors must hold a standing licence and none of the directors must hold a sports betting licence or sports betting agent's licence.

The application is to be in writing, specifying the period for which the licence is applied for (not exceeding 15 years) and, in the case of a syndicate, the application must set out the name and address of the person to whom notices may be given and sent. The application must be made to the Committee and be accompanied by the determined fee [subsection 39E(2)].

The applicant is to give any information reasonably requested by the Committee in writing [subsection 39E(3)]. The information would be used in assessing the application for a sports betting licence.

Section 39F - Suitability

Upon an application being made for a sports betting licence the Committee is to decide whether the applicant is suitable to be granted such a licence [subsection 39F(1)].

Subsection 39F(2) specifies that the applicant, be it an individual, syndicate or company, is suitable if the Committee is satisfied that:

- . the individual;
- . the syndicate and each member of the syndicate; and
- . the company and each director of the company

satisfy the suitability requirements.

Where the Committee decides that an applicant is not suitable for the grant of a sports betting licence notification of the decision is to be sent to the applicant.

Section 39G - Grant of licence

Section 39G provides that, having regard to any criteria determined by the Minister, the Committee can grant a sports betting licence to a suitable applicant. The determination is a disallowable instrument.

A sports betting licence is not to be granted if the grant would cause the number of sports betting licences to exceed the maximum determined by the Minister [subsection 39G(2)].

If the Committee grants a licence for a period shorter than applied for the licensee is to be advised in writing.

Subsection 39G(5) defines the term 'suitable applicant'.

Section 39H – Registration of particulars

The Registrar of Bookmakers is to enter the particulars of a sports betting licence granted by the Committee in the Register of Bookmakers. The information entered will include the date on which the licence is granted, the period for which it is granted, the name and address of the licensee and in the case of a syndicate or company the name and address of each member of the syndicate or each director and the secretary of the company.

Subsection 39H(2) specifies that where the particulars in paragraph (1)(c)(d) or (e) change, within 14 days the licensee is to give written notice of the change to the Registrar. A penalty applies where this is not complied with. The Committee can request further information about the membership, or any new member or director [subsection 39H(3)]. The licensee is to provide this information within 28 days after receiving a notice from the Committee.

Section 39I – Duration

Section 39I specifies that the sports betting licence remains in force for the period specified in the licence.

Section 39J – Surrender

A sports betting licensee may by writing, surrender the licence, to the Chairperson. The surrender takes effect from the date of the notice or such later date specified in the notice [subsection 39J(2)].

Section 39K – Fees

Section 39K provides that the determined fee for a sports betting licence is payable within the determined period.

Section 39L – Syndicates – liability

Section 39L specifies that where a sports betting licence is granted to a syndicate, each member is jointly and severally liable for any fee payable under section 39K and for any other obligation of the licensee under the Act.

Section 39M – Syndicates – notices

Section 39M provides that notices may be given to a syndicate by giving notice to that member and address specified in the Register for that purpose. Notice may be given to the Registrar, Chairperson or Committee on behalf of a syndicate by the member specified in the Register for that purpose [subsection 39M(2)].

Section 39N – Cancellation inquiry

The Committee may hold an inquiry into the possible cancellation of a sports betting licence. Where an inquiry is to be held, the licensee is to receive written notice, inviting written or personal representations within 28 days after the receipt of the notice

[subsection 39N(2)]. The licensee may appear personally or authorise a person to appear on their behalf [subsection 39N(3)].

Section 39P – Mandatory cancellation

Following a cancellation inquiry (section 39N), taking into account any representation made, the Committee shall cancel a sports betting licence if the Committee believes that any of the conditions set out in subsection 39P(2) apply.

Subsection 39P(2) sets out the conditions for the mandatory cancellation of a sports betting licence. Where a sports betting licence is cancelled, the Chairperson is to give written notice to the licensee. The cancellation has effect on the day after the date of the notice [paragraph 39P(3)(b)].

Section 39Q – Discretionary cancellation

Following a cancellation inquiry (section 39N) the Committee, having regard to the consideration in subsection 39Q(2), may cancel a sports betting licence if the licensee:

- . has failed to comply with a direction of the Registrar for information about a disputed sports bet; and
- . has failed to comply with a direction by the Registrar, as varied by the Sports Betting Disputes Subcommittee, in respect of a disputed sports bet within the applicable period.

Subsection 39Q(2) sets out the considerations to be taken into account by the Committee in respect of the discretionary cancellation of a sports betting licence.

Where a sports betting licence is cancelled, the Chairperson is to give written notice to the licensee. The cancellation has effect on the day after the date of the notice [paragraph 39(3)(b)].

Division 3 – Sports betting agent's licences

Section 39R – Interpretation

For the purposes of Division 3 the terms 'agent's licence' and 'head licensee' are defined.

Section 39S – Application

Section 39S provides that a sports betting licensee may apply for an agent's licence on behalf of a nominated agent. The application shall be in writing on a form supplied by the Registrar and shall be accompanied by the determined fee [subsection 39S(2)].

Section 39T – Grant

Subject to section 39T, upon receipt of an application for a sports betting licence, the Committee may grant such a licence to the nominated person.

Subsection 39T(2) specifies that the Committee may only grant a sports betting agent's licence to the nominated person if the agent holds a standing licence and satisfies the suitability requirements. The licence shall specify the date of expiry, being either the date of the expiry of the head licence or an earlier date, as may be applied for [subsection 39T(3)].

Section 39U – Notice of refusal

If the Committee refuses an application for an agent's licence the applicant is to be notified of the decision, in writing.

Section 39V – Duration

Section 39V provides that an agent's licence remains in force until the date specified in the licence.

Section 39W – Surrender

The holder of an agent's licence may in writing surrender the licence to the Chairperson. The surrender takes effect on the date of the notice of surrender or such later date as is specified in the notice [subsection 39W(2)].

Section 39X – Fees

Section 39X provides that the determined fee for an agent's licence is payable within the determined period. If the determined fee payable for an agent's licence remains unpaid after the determined period the fee is payable in relation to the head licence. The holder of the head licence will have a period, equal to the determined period, within which to pay the determined fee [subsection 39X(2)]. The fee in effect becomes a fee payable by the head licensee.

Section 39Y – Cancellation inquiry

The Committee may hold an inquiry into the possible cancellation of an agent's licence. Where an inquiry is to be held, the licensee and head licensee is to receive written notice, inviting written or personal representations within 28 days of receipt of the notice [subsection 39Y(2)]. The holder of the agent's licence, the head licensee or a representative authorised by either licensee may appear before the Committee.

Section 39Z – Mandatory cancellation

Following a cancellation inquiry (section 39Y), taking into account any representations made, the Committee shall cancel an agent's licence if the Committee believes that any of the conditions set out in subsection 39Z(2) apply.

Subsection 39Z(2) sets out the conditions for the mandatory cancellation of an agent's licence. Where an agent's licence is cancelled, the Chairperson is to give written notice to the licensee. The cancellation has effect on and from the day after the date of the notice [paragraph 39Z(3)(b)].

Section 39ZA – Discretionary cancellation

Following a cancellation inquiry (section 39Y) the Committee, having regard to the considerations in subsection 39ZA(2), may cancel a sports betting licence if the licensee:

- has failed to comply with a direction of the Registrar for information about a disputed sports bet; and
- has failed to comply with a direction by the Registrar, as varied by the Sports Betting Disputes Subcommittee, in respect of a disputed sports bet within the applicable period.

Subsection 39Z(2) sets out the considerations to be taken into account by the Committee in respect of the discretionary cancellation of a sports betting licence.

Where a sports betting licence is cancelled, the Chairperson is to give written notice to the licensee. The cancellation has effect on the day after the date of the notice [paragraph 39(3)(b)].

Division 4 – Sports betting disputes

Section 39ZB – Interpretation

Section 39ZB defines terms for the purpose of Division 4, including 'direction', 'respondent' and 'Subcommittee'.

Section 39ZC – Sports Betting Disputes Subcommittee

A Sports Betting Disputes Subcommittee shall hear and determine reviews of directions. Directions shall be made by the Registrar.

The Subcommittee shall consist of members of the Committee, being the Chairperson and two other persons nominated by the Minister [subsection 39ZC(2)]. The Chairperson of the Committee shall be the Subcommittee Chairperson. The instrument nominating the members is a disallowable instrument [subsection 39ZC(4)].

Section 39ZD – Referral of disputed claims to Registrar

Section 39ZD provides that where in relation to a sports bet, a backer claims to have not been paid, or underpaid, by a sports betting licensee, a claim may be made to the Registrar.

The claim is to be referred to the Registrar within 28 days after the completion of the sports betting event. The claim is to be made in writing on a form supplied by the Registrar.

Section 39ZE – Notices and information about claims

Section 39ZE provides that where the Registrar requests further information about the claim of a disputed sports bet from the backer, that information is to be provided by the

backer within a specified period after the date of the notice. The specified period shall be no shorter than 14 days.

The Registrar is to give written notice of the claim about a disputed sports bet to the licensee with whom the sports bet was made [subsection 39ZE(2)].

Within the specified period after the date of the notice the licensee, or a person authorised by the licensee, shall give the Registrar such information as is requested by the Registrar in the notice, and may make a written representation about the claim. Where the Registrar requests information from the licensee the notice is to include a statement to the effect that if the information is not supplied within the period specified in the notice the licence may be cancelled [subsections 39ZE(3) and (4)].

Section 39ZF – Rejection of referral

Section 39ZF specifies that if a backer refers a claim to the Registrar more than 28 days after the completion of the sports betting event the Registrar shall reject the referral. If the backer fails to supply the information requested by the Registrar within the period specified in the notice the referral is to be rejected [subsection 39ZF(2)].

In both cases, where the referral is rejected, the Registrar is to advise the backer in writing stating the reasons for the rejection.

Section 39ZG – Registrar's directions

Section 39ZG specifies that where a claim about a disputed sports bet is referred to the Registrar a direction is to be made within 14 days after:

- (a) if a notice is sent to a backer requesting information, the expiry of the period specified in the notice; or
- (b) where a notice is sent to a licensee requesting information, the expiry of the period specified in the notice.

Having regard to any information provided by the backer or licensee and any representation made by or on behalf of the licensee, the Registrar is to issue a direction stating any amount which the Registrar believes the backer is owed [subsection 39ZG(2)].

The backer and licensee is to be given written notice of the direction. The notice will include a copy of the direction and a statement of reasons for making the direction. The notice is also to contain a statement advising that an application can be made to the Subcommittee for a review of the decision within 28 days after the date of the notice [subsection 39ZG(3)].

Section 39ZH – Effect of directions

Section 39ZH provides that a direction about a dispute between a backer and sports betting licensee will only provide grounds for the cancellation of a sports betting licence or agent's licence in the event that the licensee does not comply with the direction.

For the purposes of the discretionary cancellation of a sports betting licence or agent's licence, the period for compliance with a direction commences on the day the notice is sent to the licensee and expires on the later of:

- the day immediately after the 28 days after notice of the direction is given; and

- if the backer or licensee applies to the Subcommittee for a review of the direction, the end of the 28 days after notice of the review decision is given to the licensee.

Subsection 39ZI – Application for review by Subcommittee

Section 39ZI provides that within 28 days after the Registrar giving notice of a direction, the sports licensee or backer may apply to the Subcommittee for a review of the direction. The application is to be in writing and on a form supplied by the Registrar [subsection 39ZI(2)].

Section 39ZJ – Notice of applications

Where an application for review of a decision is made to the Subcommittee, the Chairperson is to advise the respondent that the application has been made. The respondent is to be invited to make written representations, either personally or by another person, on behalf of the respondent. The representations are to be made within 14 days after the date of the notice.

Section 39ZK – Rejection of applications

Section 39ZK provides that if an application for review of a decision is made to the Subcommittee 28 days after notice is given to the applicant the Chairperson shall reject the application. The applicant is to receive written notice of the decision stating the reason for the application being rejected.

Section 39ZL – Review by Subcommittee

Subsection 39ZL provides that having regard to representations made by, or on behalf of the respondent, the Subcommittee shall either affirm or vary the direction of the Registrar that is being reviewed.

The Chairperson shall advise the applicant and respondent of the Subcommittee's decision. The advice is to be in writing and shall include a statement explaining the reasons for the decision.

Clause 13 – Unlicensed bookmaking

Clause 13 amends section 40 of the Principal Act. Section 40 provides that it is an offence for a bookmaker to carry on business of a bookmaker unless the bookmaker holds a standing licence which permits the bookmaker to field at race meetings.

Clause 13 amends section 40 provides that a bookmaker shall not carry on business at a race meeting unless the bookmaker holds a standing licence authorising him or her

to field at such race meetings or the business relates to bets placed upon an event or contingency relating to a race.

Clause 13 also inserts Subsection 40(2) which specifies that a bookmaker shall not carry on business as a bookmaker at a sporting venue unless:

- (a) in relation to bets placed on a race, the bookmaker holds a standing licence; or
- (b) in relation to bets placed on a sports betting event the bookmaker:
 - holds a sports betting licence or sports betting agent's licence;
 - is a member of a syndicate that holds a sports betting licence; or
 - is a standing licensee, who is a director of a company which holds a sports betting licence.

Clause 14 – Evidence of licences

Clause 14 amends section 49 of the Principal Act. Section 49 specifies that a certificate issued by the Registrar that a person was or was not a holder of a standing licence or a bookmaker's agent's licence is to be taken to be evidence of that fact.

Clause 14 amends section 49 by providing a similar provision in respect of persons and members of syndicates and companies who hold sports betting licences.

Clause 15 – Review of decisions

Clause 15 amends section 50 of the Principal Act. Section 50 sets out what decisions under the Principal Act are reviewed by the AAT.

Clause 15 amends section 50 by adding those decisions made about the grant and cancellation of a sports betting licence and agent's licence that will be subject to review by the AAT.

Clause 16 – Statements of reasons and review rights

Clause 16 amends section 51 of the Principal Act. Section 51 provides that in certain circumstances a notice of a decision which is reviewable is to include a statement setting out the reasons for the decision.

Clause 16 amends section 51 by adding further circumstances where the notice is to include a statement of reasons.

Clause 17 – Substitution

Clause 17 repeals section 55 of the Principal Act. Section 55 enables the Minister to determine fees for the purposes of the Act.

Subclause 17(1) repeals section 55 and substitutes a new section 55. Section 55 provides that the Minister may by instrument determine:

- . fees calculated by reference to turnover or otherwise;
- . percentages for the calculation of fees; and
- . periods within which fees are to be paid.

The determination is a disallowable instrument.

Subclause 17(2) provides that the continuing validity of any existing determination under section 55 is not affected by the changes in subclause 17(1).