



Australian Capital Territory

# Racing Amendment Act 2013

A2013-1

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Australian Capital Territory

# Racing Amendment Act 2013

A2013-1

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An Act to amend the *Racing Act 1999* and the *Racing (Race Field Information) Regulation 2010*

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The Legislative Assembly for the Australian Capital Territory enacts as follows:

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Racing Amendment Act 2013*.

### 2 Commencement

This Act commences on a day fixed by the Minister by written notice.

*Note 1* The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](#), s 75 (1)).

*Note 2* A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see [Legislation Act](#), s 77 (1)).

*Note 3* If a provision has not commenced within 6 months beginning on the notification day, it automatically commences on the first day after that period (see [Legislation Act](#), s 79).

### 3 Legislation amended

This Act amends the *Racing Act 1999* and the *Racing (Race Field Information) Regulation 2010*.

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## Part 2 Racing Act 1999

### 4 Definitions—pt 5B Section 61E

*omit the definitions of*

*assessable turnover*

*bet back*

*bets held on races conducted in the ACT*

*bets paid*

### 5 Section 61E, new definitions

*insert*

*race field information charge*—see section 61M (1).

*relevant controlling body* means—

- (a) for a thoroughbred race—the racing club; and
- (b) for a harness race—the harness club; and
- (c) for a greyhound race—the greyhound club; and
- (d) for a race of a kind stated in an instrument of approval under section 33 (Approved racing organisations)—the ARO to which the instrument relates.

### 6 Section 61E, definition of *relevant net revenue*

*omit*

**7 Offence—failing to pay race field information charge  
Section 61G (b)**

*substitute*

- (b) it is a condition of the approval that the operator pay a race field information charge; and

**8 Offence—failing to comply with condition on approval  
Section 61H (b)**

*substitute*

- (b) the operator does not comply with a condition on the approval imposed under section 61N.

**9 Section 61J**

*substitute*

**61J Application for approval to use race field information**

- (1) A person may apply to the relevant controlling body for approval to use race field information.
- (2) An application for approval must be—
- (a) made in the way and in the time required by the relevant controlling body; and
  - (b) accompanied by any information—
    - (i) required by the relevant controlling body; or
    - (ii) prescribed by regulation.



**10 Issue of approval  
Section 61K (1)**

*omit*

commission

*substitute*

relevant controlling body

**11 Section 61K (2) and note**

*substitute*

- (2) The relevant controlling body must not issue the approval unless—
- (a) satisfied that the applicant is—
    - (i) a licensed wagering operator; and
    - (ii) a suitable person to hold an approval having regard to the matters mentioned in section 61L; and
  - (b) the relevant controlling body has considered or disregarded any matter prescribed by regulation.

*Note 1* An approval is subject to certain conditions and may be subject to other conditions imposed by the relevant controlling body (see s 61M and s 61N).

*Note 2* In issuing an approval, and imposing conditions on the approval, a relevant controlling body is subject to the [Australian Capital Territory \(Self-Government\) Act 1988](#) (Cwlth), s 69 (Trade and commerce to be free).

**12 Suitable person  
Section 61L (1)**

*omit*

commission

*substitute*

relevant controlling body

**13 New section 61L (1) (f)**

*insert*

(f) a matter prescribed by regulation.

**14 Section 61L (2)**

*omit*

commission

*substitute*

relevant controlling body

**15 Section 61M**

*substitute*

**61M Condition on approval—race field information charge**

- (1) An approval issued under section 61K, or a renewal issued under section 61Q, is subject to a condition that the licensed wagering operator pay the amount (if any) (a *race field information charge*)—
  - (a) stated in the approval or other written notice given to the licensed wagering operator by the relevant controlling body; or

- (b) worked out in the way stated in the approval or other written notice given to the licensed wagering operator by the relevant controlling body.
- (2) A regulation may prescribe requirements in relation to the way a relevant controlling body determines a race field information charge, including the maximum amount of the charge that may be imposed on a licensed wagering operator.
- (3) A race field information charge is a debt due by a licensed wagering operator to the relevant controlling body.

**16 Other conditions of approval  
Section 61N (b)**

*omit*

commission

*substitute*

relevant controlling body

**17 Section 61P**

*substitute*

**61P Renewal of approval**

- (1) A licensed wagering operator may apply to the relevant controlling body to renew an approval to use race field information—
  - (a) before the approval term ends; or
  - (b) if the relevant controlling body extends the time for an application to renew—before the end of the extended time.
- (2) To remove any doubt, if the relevant controlling body extends the time under subsection (1) (b), the approval continues until the end of the extended time.

- (3) An application for renewal of an approval must be—
- (a) made in the way and in the time required by the relevant controlling body; and
  - (b) accompanied by any information—
    - (i) required by the relevant controlling body; or
    - (ii) prescribed by regulation.

**18 Issue of renewed approval  
Section 61Q (1)**

*omit*

commission

*substitute*

relevant controlling body

**19 Section 61Q (2) and note**

*substitute*

- (2) The relevant controlling body must not renew the approval unless—
- (a) satisfied that the applicant is—
    - (i) a licensed wagering operator; and
    - (ii) a suitable person to hold an approval having regard to the matters mentioned in section 61L; and
  - (b) the relevant controlling body has considered or disregarded any matter prescribed by regulation.

*Note* A renewal is subject to certain conditions and may be subject to other conditions imposed by the relevant controlling body (see s 61M and s 61N).

**20 Revocation of approval  
Section 61R**

*omit*

commission

*substitute*

relevant controlling body

**21 Division 5B.3 heading**

*substitute*

**Division 5B.3 Other matters****22 Sections 61S and 61T**

*omit*

**23 Section 61U**

*substitute*

**61U Relevant controlling body may appoint agent**

A relevant controlling body may appoint another relevant controlling body as its agent for—

- (a) the collection of a charge payable under this part; and
- (b) any other matter provided for in this part.

**24 Section 61V**

*substitute*

**61V Relevant controlling bodies must give report on race field information charge revenue**

- (1) A relevant controlling body must, for each financial year, give the Minister a written report on—
  - (a) the total amount of race field information charges paid to the relevant controlling body in the financial year; and
  - (b) an estimate of the race field information charges that the relevant controlling body expects will be paid to the body in the following financial year; and
  - (c) any other matter prescribed by regulation.
- (2) A regulation may prescribe requirements for a report under subsection (1), including when the report must be given to the Minister.

**25 Section 61W**

*substitute*

**61W Confidentiality of personal information**

- (1) This section applies to a relevant controlling body if the [Privacy Act 1988](#) (Cwlth), schedule 3 (National Privacy Principles) (the *NPPs*) does not apply to the body.
- (2) The *NPPs*, as in force from time to time, apply to the relevant controlling body as if—
  - (a) the body were an organisation; and
  - (b) any other necessary changes were made to apply the *NPPs* to the body.

- (3) The [Legislation Act](#), section 47 (6) does not apply in relation to the NPPs.

*Note* The NPPs do not need to be notified under the [Legislation Act](#) because s 47 (6) does not apply (see [Legislation Act](#), s 47 (7)). The NPPs are accessible at [www.comlaw.gov.au](http://www.comlaw.gov.au).

**26 Authorisations for Competition and Consumer Act and Competition Code  
Section 61X (1) (a)**

*omit*

controlling bodies or AROs

*substitute*

relevant controlling bodies

**27 Section 61X (1) (b) and (c)**

*omit*

controlling body, an ARO

*substitute*

relevant controlling body

**28 New part 10**

*insert*

**Part 10 Transitional—Racing  
Amendment Act 2013**

**100 Definitions—pt 10**

In this part:

*commencement day* means the day the *Racing Amendment Act 2013*, section 3 commences.

*pre-amendment part 5B* means part 5B as in effect immediately before the commencement day.

*post-amendment part 5B* means part 5B as in effect on the commencement day.

**101 Existing approvals etc to use race field information**

- (1) This section applies if—
  - (a) an approval to use race field information is issued, or renewed, under pre-amendment part 5B; and
  - (b) the approval is in force immediately before the commencement day.
- (2) The approval is taken to be an approval under post-amendment part 5B.



**102 Commission to act as relevant controlling bodies' agent**

- (1) On the commencement day, a relevant controlling body appoints the commission as its agent to do the following:
  - (a) invoice licensed wagering operators that the relevant controlling body has told the commission in writing are liable under post-amendment 5B to pay a race field information charge;
  - (b) collect race field information charges that have been invoiced by the commission;
  - (c) pay the relevant controlling body the amount of charges collected by the commission on the body's behalf;
  - (d) any other thing that is necessary or convenient to do the things mentioned in paragraph (a) to (c).
- (2) The commission may deduct an administration fee equivalent to 5% of the total amount of race field information charges that are collected by the commission.
- (3) This section expires on 30 June 2013.

**103 Permitted disclosure of information to relevant controlling bodies**

The commission may give a relevant controlling body information obtained in relation to an application under pre-amendment part 5B, section 61K or section 61Q, that the commission considers is reasonably necessary to allow the relevant controlling body to exercise its functions under the Act, part 5B.

*Note* The Information Privacy Principles apply to the commission (see [Privacy Act 1988](#) (Cwlth), s 14 to s 16).

**104 Transitional regulations**

- (1) A regulation may prescribe transitional matters necessary or convenient to be prescribed because of the enactment of the *Racing Amendment Act 2013*.
- (2) A regulation may modify this part (including in relation to another territory law) to make provision in relation to anything that, in the Executive's opinion, is not, or is not adequately or appropriately, dealt with in this part.
- (3) A regulation under subsection (2) has effect despite anything elsewhere in this Act or another territory law.

**105 Expiry—pt 10**

This part expires 1 year after the day it commences.

*Note* Transitional provisions are kept in the Act for a limited time. A transitional provision is repealed on its expiry but continues to have effect after its repeal (see *Legislation Act*, s 88).

**29 Dictionary, definitions**

*omit the definitions of*

*assessable turnover*

*bet back*

*bets held on races conducted in the ACT*

*bets paid*

**30 Dictionary, definition of *controlling body*, paragraphs (b) and (c)**

*substitute*

(b) the harness club; or

(c) the greyhound club.

**31 Dictionary, definition of *race field information charge***

*substitute*

*race field information charge*, for part 5B (Use of race field information)—see section 61M (1).

**32 Dictionary, new definition of *relevant controlling body***

*insert*

*relevant controlling body*, for part 5B (Use of race field information)—see section 61E.

**33 Dictionary, definition of *relevant net revenue***

*omit*

## Part 3 Racing (Race Field Information) Regulation 2010

### 34 Sections 5 to 11

*substitute*

#### 5 Prescribed information for application for, or renewal of, approval—Act, s 61J (2) (b) and s 61P (3) (b)

- (1) The following information is prescribed:
  - (a) the name and contact details of the applicant;
  - (b) details of the proposed use of race field information (including the race to which the approval is to relate and the time and manner of use);
  - (c) details of the applicant's licence or authority to conduct a wagering business—
    - (i) under a law of the Territory, a State or an external territory; or
    - (ii) issued by a controlling body, a corresponding body, or a racing authority of the Territory, a State or an external territory;

*Note* **State** includes the Northern Territory—see the [Legislation Act](#), dict, pt 1.

- (d) details of the kinds of wagering offered by the applicant;
- (e) details of the applicant's history of wagering operations and use of race field information (including details of the applicant's past wagering turnover in relation to races conducted in the ACT);

- (f) details of the criminal history (if any) of—
  - (i) if the applicant is an individual—the applicant, key employees and close associates of the applicant that are known to the applicant; or
  - (ii) if the applicant is a corporation—key employees and close associates of the applicant that are known to the applicant;
- (g) details of any disciplinary action under any legislation or any rules of racing or betting (whether in the ACT or elsewhere) that have been taken against—
  - (i) if the applicant is an individual—the applicant, key employees and close associates of the applicant that are known to the applicant; or
  - (ii) if the applicant is a corporation—key employees and close associates of the applicant that are known to the applicant;
- (h) details of the applicant’s policy and procedure for dealing with racing integrity issues relating to races conducted in the ACT.

**Examples—racing integrity issues**

suspect betting transactions, fraud

*Note* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (2) In this section:

**key employee**, in relation to an applicant for an approval, means a person (whether or not engaged under a contract of service) who is—

- (a) employed in a managerial or supervisory capacity in relation to the conduct of a wagering business by the applicant; or

- (b) authorised to make decisions, involving the exercise of his or her discretion, that regulate the operations of the applicant in relation to the conduct of a wagering business; or
- (c) concerned or engaged, in any way, in the conduct of a wagering business by the applicant.

**6 Prescribed matters to be considered or disregarded in deciding application for, or renewal of, approval—Act, s 61K (2) (b) and s 61Q (2) (b)**

- (1) A relevant controlling body must consider whether issuing, or renewing, the approval will undermine the integrity of the conduct of races in the ACT for which the relevant controlling body has responsibility.
- (2) A relevant controlling body must disregard—
  - (a) the location in Australia in which the applicant—
    - (i) for an individual—lives or carries out his or her activities; or
    - (ii) for a corporation—has its head office or principal place of business; and
  - (b) the jurisdiction under which the applicant is licensed or authorised to conduct a wagering business.

**7 Prescribed conditions of approval or renewal—Act, s 61N (a)**

- (1) The following conditions are prescribed:
  - (a) the licensed wagering operator must give the relevant controlling body access to all the operator's betting information and analyses in relation to the race field information covered by the approval;

- (b) the licensed wagering operator must, if reasonably required by the relevant controlling body, allow the body to monitor wagering activity, including activity relating to—
  - (i) bets held on races conducted in the ACT; and
  - (ii) bets paid; and
  - (iii) bet backs; and
  - (iv) any betting account that is used for betting on an authorised race meeting in the ACT;
- (c) the licensed wagering operator must use an operating and recording system, whether computerised or not, that—
  - (i) includes measures to prevent unauthorised access and unauthorised changes to data; and
  - (ii) provides an audit trail for all wagering activity that relates to authorised race meetings in the ACT;
- (d) the licensed wagering operator must not open an account for betting for a person unless the person has properly established their identity;

**Example—properly establishing identity**

providing 100 points of identification as commonly required by authorised deposit-taking institutions

*Note* An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (e) the licensed wagering operator must not open or maintain an account for betting if the operator knows the account is for a person who—
  - (i) is disqualified or suspended from participation in racing under racing, gaming or wagering legislation or a rule of racing or betting (in the ACT or elsewhere); or

- (ii) is subject to a warning-off notice issued by a defined entity;
- (f) the licensed wagering operator must, within a reasonable time stated by the relevant controlling body—
  - (i) give information to an inquiry or investigation; and
  - (ii) cooperate with an inquiry or investigation;
- (g) if any part of a licensed wagering operator's business involves online wagering—the operator must participate in an online wagering monitoring system if reasonably required to do so by the relevant controlling body;
- (h) the licensed wagering operator must notify the relevant controlling body of any of the following happening, within 14 days after the day it happens:
  - (i) an entity stops having a controlling interest in the operator's business;
  - (ii) an entity starts having a controlling interest in the operator's business;
  - (iii) a prosecution or disciplinary action is started under racing, gaming or wagering legislation or a rule of racing or betting (in the ACT or elsewhere) against—
    - (A) the operator; or
    - (B) an entity with a controlling interest in the operator; or
    - (C) an employee of the operator;
  - (iv) a significant change in the financial circumstances of the operator.

**Example—significant change in financial circumstances**

- 1 insolvency
- 2 a significant change in the wagering turnover



(2) In this section:

**warning-off notice** means a notice stating that a person is not permitted to enter a racecourse.

### 35 Dictionary, note 3

*omit*

- assessable turnover
- bet back
- bets held on races conducted in the ACT
- bets paid
- commission
- controlling body
- relevant net revenue

### 36 Dictionary, note 3

*insert*

- betting exchange

### 37 Dictionary, new definitions

*insert*

**bet back** means a bet by a bookmaker on 1 or more runners in a race if the bet is made to offset, completely or partly, the bookmaker's liability for bets made with the bookmaker on the race.

**bets held on races conducted in the ACT**, by a licensed wagering operator—

(a) means—

- (i) all bets and wagers accepted by the operator for any race conducted in the ACT whether or not the actual amount owing has been paid; and

- (ii) the aggregate of all bets or wagers placed by the operator's customers on a betting exchange for any race conducted in the ACT; but

*Note* Aggregate bets on a betting exchange, is the backer's side of wagers made by the licensed wagering operator's customers through the operation of the betting exchange, whether or not the betting exchange is a party to the wagering contract.

- (b) does not include—
  - (i) free or complimentary bets taken for a race conducted in the ACT; or
  - (ii) multi-leg bets that include at least 1 race conducted outside the ACT.

***bets paid***, in relation to a licensed wagering operator—

- (a) means all bets and wagers paid or settled by the operator for any race conducted in the ACT; but
- (b) does not include—
  - (i) payments made by the operator on any free or complimentary bets that were accepted; or
  - (ii) payments made by the operator on multi-leg bets that include at least 1 race conducted outside the ACT; or
  - (iii) unclaimed bets or dividends of the operator.

***wagering turnover***, of a licensed wagering operator, for a financial year means—

- (a) the total amount of bets held on races conducted in the ACT; less
- (b) the amount of any bet back on any race conducted in the ACT in the year.

**38 Dictionary, definition of *warning-off notice***

*omit*

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**Endnotes****1 Presentation speech**

Presentation speech made in the Legislative Assembly on 29 November 2012.

**2 Notification**

Notified under the [Legislation Act](#) on 20 February 2013.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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I certify that the above is a true copy of the Racing Amendment Bill 2013, which originated in the Legislative Assembly as the Racing Amendment Bill 2012 and was passed by the Assembly on 12 February 2013.

Clerk of the Legislative Assembly

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