

2012

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Racing and Gaming)

Racing Amendment Bill 2012

Contents

	Page
Part 1	
Preliminary	
1 Name of Act	2
2 Commencement	2
3 Legislation amended	2
Part 2	
Racing Act 1999	
4 Definitions—pt 5B Section 61E	3
5 Section 61E, new definitions	3
6 Section 61E, definition of <i>relevant net revenue</i>	3

Contents

		Page
7	Offence—failing to pay race field information charge Section 61G (b)	4
8	Offence—failing to comply with condition on approval Section 61H (b)	4
9	Section 61J	4
10	Issue of approval Section 61K (1)	5
11	Section 61K (2) and note	5
12	Suitable person Section 61L (1)	6
13	New section 61L (1) (f)	6
14	Section 61L (2)	6
15	Section 61M	6
16	Other conditions of approval Section 61N (b)	7
17	Section 61P	7
18	Issue of renewed approval Section 61Q (1)	8
19	Section 61Q (2) and note	8
20	Revocation of approval Section 61R	9
21	Division 5B.3 heading	9
22	Sections 61S and 61T	9
23	Section 61U	9
24	Section 61V	10
25	Section 61W	10
26	Authorisations for Competition and Consumer Act and Competition Code Section 61X (1) (a)	11
27	Section 61X (1) (b) and (c)	11
28	New part 10	12
29	Dictionary, definitions	14
30	Dictionary, definition of <i>controlling body</i> , paragraphs (b) and (c)	14
31	Dictionary, definition of <i>race field information charge</i>	15
32	Dictionary, new definition of <i>relevant controlling body</i>	15

Contents

	Page
33 Dictionary, definition of <i>relevant net revenue</i>	15
Part 3	
Racing (Race Field Information) Regulation 2010	
34 Sections 5 to 11	16
35 Dictionary, note 3	21
36 Dictionary, note 3	21
37 Dictionary, new definitions	21
38 Dictionary, definition of <i>warning-off notice</i>	23

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Racing Amendment Bill 2012

A Bill for

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

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

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Racing Amendment Act 2012*.

4 **2 Commencement**

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

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

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

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

15 **3 Legislation amended**

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

1 **Part 2** **Racing Act 1999**

2 **4** **Definitions—pt 5B**
 3 **Section 61E**

4 *omit the definitions of*
 5 *assessable turnover*
 6 *bet back*
 7 *bets held on races conducted in the ACT*
 8 *bets paid*

9 **5** **Section 61E, new definitions**

10 *insert*
 11 *race field information charge*—see section 61M (1).
 12 *relevant controlling body* means—
 13 (a) for a thoroughbred race—the racing club; and
 14 (b) for a harness race—the harness club; and
 15 (c) for a greyhound race—the greyhound club; and
 16 (d) for a race of a kind stated in an instrument of approval under
 17 section 33 (Approved racing organisations)—the ARO to
 18 which the instrument relates.

19 **6** **Section 61E, definition of *relevant net revenue***

20 *omit*

1 **7 Offence—failing to pay race field information charge**
2 **Section 61G (b)**

3 *substitute*

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

6 **8 Offence—failing to comply with condition on approval**
7 **Section 61H (b)**

8 *substitute*

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

11 **9 Section 61J**

12 *substitute*

13 **61J Application for approval to use race field information**

14 (1) A person may apply to the relevant controlling body for approval to
15 use race field information.

16 (2) An application for approval must be—

17 (a) made in the way and in the time required by the relevant
18 controlling body; and

19 (b) accompanied by any information—

20 (i) required by the relevant controlling body; or

21 (ii) prescribed by regulation.

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

3 *omit*

4 commission

5 *substitute*

6 relevant controlling body

7 **11 Section 61K (2) and note**

8 *substitute*

9 (2) The relevant controlling body must not issue the approval unless—

10 (a) satisfied that the applicant is—

11 (i) a licensed wagering operator; and

12 (ii) a suitable person to hold an approval having regard to the
13 matters mentioned in section 61L; and

14 (b) the relevant controlling body has considered or disregarded any
15 matter prescribed by regulation.

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

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

- 1 **12 Suitable person**
2 **Section 61L (1)**
- 3 *omit*
4 commission
5 *substitute*
6 relevant controlling body
- 7 **13 New section 61L (1) (f)**
- 8 *insert*
9 (f) a matter prescribed by regulation.
- 10 **14 Section 61L (2)**
- 11 *omit*
12 commission
13 *substitute*
14 relevant controlling body
- 15 **15 Section 61M**
- 16 *substitute*
- 17 **61M Condition on approval—race field information charge**
- 18 (1) An approval issued under section 61K, or a renewal issued under
19 section 61Q, is subject to a condition that the licensed wagering
20 operator pay the amount (if any) (a *race field information*
21 *charge*)—
- 22 (a) stated in the approval or other written notice given to the
23 licensed wagering operator by the relevant controlling body; or

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

10 **16 Other conditions of approval**
 11 **Section 61N (b)**

- 12 *omit*
- 13 commission
- 14 *substitute*
- 15 relevant controlling body

16 **17 Section 61P**

- 17 *substitute*

18 **61P Renewal of approval**

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

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

7 **18 Issue of renewed approval**
8 **Section 61Q (1)**

9 *omit*
10 commission
11 *substitute*
12 relevant controlling body

13 **19 Section 61Q (2) and note**

- 14 *substitute*
15 (2) The relevant controlling body must not renew the approval unless—
16 (a) satisfied that the applicant is—
17 (i) a licensed wagering operator; and
18 (ii) a suitable person to hold an approval having regard to the
19 matters mentioned in section 61L; and
20 (b) the relevant controlling body has considered or disregarded any
21 matter prescribed by regulation.
22 *Note* A renewal is subject to certain conditions and may be subject to other
23 conditions imposed by the relevant controlling body (see s 61M and
24 s 61N).

1 **20 Revocation of approval**
 2 **Section 61R**

3 *omit*

4 commission

5 *substitute*

6 relevant controlling body

7 **21 Division 5B.3 heading**

8 *substitute*

9 **Division 5B.3 Other matters**

10 **22 Sections 61S and 61T**

11 *omit*

12 **23 Section 61U**

13 *substitute*

14 **61U Relevant controlling body may appoint agent**

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

17 (a) the collection of a charge payable under this part; and

18 (b) any other matter provided for in this part.

1 **24 Section 61V**

2 *substitute*

3 **61V Relevant controlling bodies must give report on race field**
4 **information charge revenue**

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

16 **25 Section 61W**

17 *substitute*

18 **61W Confidentiality of personal information**

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

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

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

6 **26 Authorisations for Competition and Consumer Act and**
 7 **Competition Code**
 8 **Section 61X (1) (a)**

9 *omit*
 10 controlling bodies or AROs
 11 *substitute*
 12 relevant controlling bodies

13 **27 Section 61X (1) (b) and (c)**

14 *omit*
 15 controlling body, an ARO
 16 *substitute*
 17 relevant controlling body

1 **28** **New part 10**

2 *insert*

3 **Part 10** **Transitional—Racing**
4 **Amendment Act 2012**

5 **100** **Definitions—pt 10**

6 In this part:

7 *commencement day* means the day the *Racing Amendment*
8 *Act 2012*, section 3 commences.

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

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

13 **101** **Existing approvals etc to use race field information**

14 (1) This section applies if—

15 (a) an approval to use race field information is issued, or renewed,
16 under pre-amendment part 5B; and

17 (b) the approval is in force immediately before the commencement
18 day.

19 (2) The approval is taken to be an approval under post-amendment
20 part 5B.

- 1 **102 Commission to act as relevant controlling bodies' agent**
- 2 (1) On the commencement day, a relevant controlling body appoints the
- 3 commission as its agent to do the following:
- 4 (a) invoice licensed wagering operators that the relevant
- 5 controlling body has told the commission in writing are liable
- 6 under post-amendment 5B to pay a race field information
- 7 charge;
- 8 (b) collect race field information charges that have been invoiced
- 9 by the commission;
- 10 (c) pay the relevant controlling body the amount of charges
- 11 collected by the commission on the body's behalf;
- 12 (d) any other thing that is necessary or convenient to do the things
- 13 mentioned in paragraph (a) to (c).
- 14 (2) The commission may deduct an administration fee equivalent to 5%
- 15 of the total amount of race field information charges that are
- 16 collected by the commission.
- 17 (3) This section expires on 30 June 2013.

18 **103 Permitted disclosure of information to relevant**

19 **controlling bodies**

20 The commission may give a relevant controlling body information

21 obtained in relation to an application under pre-amendment part 5B,

22 section 61K or section 61Q, that the commission considers is

23 reasonably necessary to allow the relevant controlling body to

24 exercise its functions under the Act, part 5B.

25 *Note* The Information Privacy Principles apply to the commission (see

26 [Privacy Act 1988](#) (Cwlth), s 14 to s 16).

1 **104 Transitional regulations**

- 2 (1) A regulation may prescribe transitional matters necessary or
3 convenient to be prescribed because of the enactment of the *Racing*
4 *Amendment Act 2012*.
- 5 (2) A regulation may modify this part (including in relation to another
6 territory law) to make provision in relation to anything that, in the
7 Executive's opinion, is not, or is not adequately or appropriately,
8 dealt with in this part.
- 9 (3) A regulation under subsection (2) has effect despite anything
10 elsewhere in this Act or another territory law.

11 **105 Expiry—pt 10**

12 This part expires 1 year after the day it commences.

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

16 **29 Dictionary, definitions**

17 *omit the definitions of*

18 *assessable turnover*

19 *bet back*

20 *bets held on races conducted in the ACT*

21 *bets paid*

22 **30 Dictionary, definition of *controlling body*, paragraphs (b)**
23 **and (c)**

24 *substitute*

25 (b) the harness club; or

26 (c) the greyhound club.

- 1 **31 Dictionary, definition of *race field information charge***
- 2 *substitute*
- 3 *race field information charge*, for part 5B (Use of race field
4 information)—see section 61M (1).
- 5 **32 Dictionary, new definition of *relevant controlling body***
- 6 *insert*
- 7 *relevant controlling body*, for part 5B (Use of race field
8 information)—see section 61E.
- 9 **33 Dictionary, definition of *relevant net revenue***
- 10 *omit*

1 **Part 3** **Racing (Race Field Information)**
2 **Regulation 2010**

3 **34 Sections 5 to 11**

4 *substitute*

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

- 7 (1) The following information is prescribed:
- 8 (a) the name and contact details of the applicant;
- 9 (b) details of the proposed use of race field information (including
10 the race to which the approval is to relate and the time and
11 manner of use);
- 12 (c) details of the applicant's licence or authority to conduct a
13 wagering business—
- 14 (i) under a law of the Territory, a State or an external
15 territory; or
- 16 (ii) issued by a controlling body, a corresponding body, or a
17 racing authority of the Territory, a State or an external
18 territory;
- 19 *Note* **State** includes the Northern Territory—see the [Legislation](#)
20 [Act](#), dict, pt 1.
- 21 (d) details of the kinds of wagering offered by the applicant;
- 22 (e) details of the applicant's history of wagering operations and
23 use of race field information (including details of the
24 applicant's past wagering turnover in relation to races
25 conducted in the ACT);

- 1 (f) details of the criminal history (if any) of—
 - 2 (i) if the applicant is an individual—the applicant, key
 - 3 employees and close associates of the applicant that are
 - 4 known to the applicant; or
 - 5 (ii) if the applicant is a corporation—key employees and
 - 6 close associates of the applicant that are known to the
 - 7 applicant;
- 8 (g) details of any disciplinary action under any legislation or any
 - 9 rules of racing or betting (whether in the ACT or elsewhere)
 - 10 that have been taken against—
 - 11 (i) if the applicant is an individual—the applicant, key
 - 12 employees and close associates of the applicant that are
 - 13 known to the applicant; or
 - 14 (ii) if the applicant is a corporation—key employees and
 - 15 close associates of the applicant that are known to the
 - 16 applicant;
- 17 (h) details of the applicant’s policy and procedure for dealing with
 - 18 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).

- 24 (2) In this section:
 - 25 **key employee**, in relation to an applicant for an approval, means a
 - 26 person (whether or not engaged under a contract of service) who
 - 27 is—
 - 28 (a) employed in a managerial or supervisory capacity in relation to
 - 29 the conduct of a wagering business by the applicant; or

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

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

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

21 **7 Prescribed conditions of approval or renewal—Act,**
22 **s 61N (a)**

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

- 1 (b) the licensed wagering operator must, if reasonably required by
2 the relevant controlling body, allow the body to monitor
3 wagering activity, including activity relating to—
- 4 (i) bets held on races conducted in the ACT; and
5 (ii) bets paid; and
6 (iii) bet backs; and
7 (iv) any betting account that is used for betting on an
8 authorised race meeting in the ACT;
- 9 (c) the licensed wagering operator must use an operating and
10 recording system, whether computerised or not, that—
- 11 (i) includes measures to prevent unauthorised access and
12 unauthorised changes to data; and
13 (ii) provides an audit trail for all wagering activity that
14 relates to authorised race meetings in the ACT;
- 15 (d) the licensed wagering operator must not open an account for
16 betting for a person unless the person has properly established
17 their identity;
- 18 **Example—properly establishing identity**
19 providing 100 points of identification as commonly required by authorised
20 deposit-taking institutions
- 21 *Note* An example is part of the regulation, is not exhaustive and may
22 extend, but does not limit, the meaning of the provision in which
23 it appears (see [Legislation Act](#), s 126 and s 132).
- 24 (e) the licensed wagering operator must not open or maintain an
25 account for betting if the operator knows the account is for a
26 person who—
- 27 (i) is disqualified or suspended from participation in racing
28 under racing, gaming or wagering legislation or a rule of
29 racing or betting (in the ACT or elsewhere); or

- 1 (ii) is subject to a warning-off notice issued by a defined
2 entity;
- 3 (f) the licensed wagering operator must, within a reasonable time
4 stated by the relevant controlling body—
- 5 (i) give information to an inquiry or investigation; and
6 (ii) cooperate with an inquiry or investigation;
- 7 (g) if any part of a licensed wagering operator's business involves
8 online wagering—the operator must participate in an online
9 wagering monitoring system if reasonably required to do so by
10 the relevant controlling body;
- 11 (h) the licensed wagering operator must notify the relevant
12 controlling body of any of the following happening, within
13 14 days after the day it happens:
- 14 (i) an entity stops having a controlling interest in the
15 operator's business;
- 16 (ii) an entity starts having a controlling interest in the
17 operator's business;
- 18 (iii) a prosecution or disciplinary action is started under
19 racing, gaming or wagering legislation or a rule of racing
20 or betting (in the ACT or elsewhere) against—
- 21 (A) the operator; or
22 (B) an entity with a controlling interest in the operator;
23 or
24 (C) an employee of the operator;
- 25 (iv) a significant change in the financial circumstances of the
26 operator.
- 27 **Example—significant change in financial circumstances**
- 28 1 insolvency
29 2 a significant change in the wagering turnover

1 (2) In this section:

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

4 **35 Dictionary, note 3**

5 *omit*

- 6 • assessable turnover
- 7 • bet back
- 8 • bets held on races conducted in the ACT
- 9 • bets paid
- 10 • commission
- 11 • controlling body
- 12 • relevant net revenue

13 **36 Dictionary, note 3**

14 *insert*

- 15 • betting exchange

16 **37 Dictionary, new definitions**

17 *insert*

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

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

23 (a) means—

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

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

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

- 9 (b) does not include—

10 (i) free or complimentary bets taken for a race conducted in
11 the ACT; or

12 (ii) multi-leg bets that include at least 1 race conducted
13 outside the ACT.

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

15 (a) means all bets and wagers paid or settled by the operator for
16 any race conducted in the ACT; but

- 17 (b) does not include—

18 (i) payments made by the operator on any free or
19 complimentary bets that were accepted; or

20 (ii) payments made by the operator on multi-leg bets that
21 include at least 1 race conducted outside the ACT; or

22 (iii) unclaimed bets or dividends of the operator.

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

25 (a) the total amount of bets held on races conducted in the ACT;
26 less

27 (b) the amount of any bet back on any race conducted in the ACT
28 in the year.

1 38 Dictionary, definition of *warning-off notice***2** *omit*

Endnotes**1 Presentation speech**

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

2 Notification

Notified under the [Legislation Act](#) on 2012.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.
