

2001

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

RACE AND SPORTS BOOKMAKING BILL 2001

**SUPPLEMENTARY
EXPLANATORY MEMORANDUM**

Circulated by the authority of
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Treasurer

Clause 5**Subclause (3) inserted**

The purpose of this subclause is to eliminate the possibility of a sports bookmaker being prosecuted for unauthorised race bookmaking for having taken a bet on a race without a race bookmaker's licence.

Clause 19**Subclause (3) inserted**

The purpose of this subclause is to eliminate the possibility of a race bookmaker being prosecuted for unauthorised sports bookmaking for having taken a bet on a sports bookmaking event that is a race, when not in possession of a sports bookmaker's licence.

Clause 57**Subclause (3), note**

Under clauses 82 and 84, a decision under this subsection not to accept a referral out of time may be reconsidered by the commission on application and if the decision is upheld, reviewed by the AAT. A notice of the decision and the right to apply for reconsideration must be given to anyone whose interests are affected by a decision.

The insertion of the words 'whose interests are affected by the decision (see s 83)' makes this note identical to others, for example, the notes at Clauses 62, 68, 69 and 72, and allows anyone whose interests are affected by a decision under this subsection to apply to the commission for reconsideration of the decision and, if the decision is upheld, reviewed by the AAT. Notice of the decision must also be given to those whose interests are affected.

Clause 58**Subclause (3), note**

This is as per Clause 57 (3), note.

The purpose of the substantial amendments to Clauses 58, 59 and 60 is to ensure that procedural fairness is afforded to the parties to a disputed bet and for the commission to take account of the representations by the parties before issuing a direction in relation to the disputed bet.

Clause 58**Subclause (4) inserted**

This sub-clause provides that a notice must also include a statement to the effect that the backer has an opportunity to make written representations to the commission about the betting dispute within 14 days or any longer period allowed by the commission. Reading this in the context of the Clause, this gives the backer an opportunity to make representations to the commission if the commission has rejected the backer's referral due to the fact that the backer has failed to give the commission information which the backer was required to provide within the allowed period.

Clause 59**Subclause (3)**

The words 'or any longer period or any longer period' are substituted for 'or any longer period'. This corrects a typographical error.

Clause 59**Subclauses (4), (5) and (6) inserted**

Subclause (4) provides that the notice referred to in this clause must also include a statement to the effect that the bookmaker or the bookmaker's agent may make written representations to the commission about the betting dispute within 14 days or any longer period allowed by the commission. Subclause (5) requires that the person to whom the notice is given must give the information stated in the notice to the commission within 14 days or any longer period allowed by the commission. Subclause (6) requires that if the notice is given to the bookmaker's agent and a copy of it is given to the bookmaker, the bookmaker must ensure that the information stated in the notice is given to the commission, by either the agent or the bookmaker, within 14 days or any longer period allowed by the commission.

Clause 60**Subclause (1A) inserted**

This requires that the commission does not give the direction until it has taken into account any representations made in accordance with the statement mentioned in clauses 58 (4) or 59 (4).

Clause 64**Subclause (3) (b) replaced**

The replacement of this subclause changes the meaning of when a bet is completed under Part 7. Rather than being completed when each event or contingency on which the bet depended has been decided, the replacement subclause states that a bet is taken to be completed when;

- i) for a bet, other than a telephone bet, with a race bookmaker – when the bookmaker issues a numbered betting ticket for the bet; or
- ii) for a telephone bet with a race bookmaker – when the bet is confirmed in accordance with the rules approved under clause 76 (1); or
- iii) for a bet with a sports bookmaker – when the bet is confirmed in accordance with directions given under clause 22 or the rules for sports bookmaking.

The purpose of changing the meaning is to maintain current practice, reduce compliance costs to bookmakers and to the regulator.

Clause 68 replaced

This clause was replaced in order to have the criteria for mandatory licence cancellation apply equally to both race and sports bookmakers. The principal difference has been the inclusion of, for a race bookmaker and a race bookmaker's agent, '*a prohibited act*' criterion at subclause 2(c), as defined at subclause (3).

The replacement clause states that following an inquiry in relation to a licensee, the commission must cancel each licence held by the licensee if the commission is satisfied on reasonable grounds that at least one criterion under this clause applies to the licensee and has been established in relation to the licensee.

Subclause (2) sets out the criteria if the licensee holds a race bookmaking licence. Subclause (2) (a) remains as it did prior to the amendment. Subclause (2) (b) states that the licensee has not paid a fee payable under this Act in relation to the licence within the period it is required to be paid. Subclause (2) (c) states that the licensee has committed a prohibited act.

Subclause (3) defines a prohibited act for the purpose of subclause (2) as being, for a race bookmaker – contrary to clauses 73 (1) or (3) and for a race bookmaker's agent – contrary to clauses 73 (2) or (3).

For a race bookmaker and a race bookmaker's agent:

- subclause (3) (b) defines a prohibited act as accepting a bet by telephone contrary to clause 75;
- subclause (3) (c) defines a prohibited act as contravening, without reasonable excuse, the rules about telephone betting approved under clause 76 (1); and
- subclause (3) (d) defines a prohibited act as interfering, without reasonable excuse, with equipment prescribed under the regulations for clause 75 (b), unless the licensee satisfied the commission that the licensee did not know, and had no reason to believe, that the equipment was prescribed equipment or that the licensee acted under an authorisation under clause 87.

Subclause (4) sets out the criteria which apply to the licensee if they hold a sports bookmaking licence. Subsection 4 (a) states the criteria for an individual as -

- i) the licensee does not meet the suitability requirements; or
- ii) the licensee has engaged in a prohibited act; or
- iii) the licensee holds another sports bookmaking licence; or
- iv) the licensee is a member of a syndicate that holds a sports bookmaking licence.

Subsection 4 (b) set out the criteria for a syndicate as -

- i) the syndicate does not consist of at least 2 and not more than 4 members; or
- ii) any member of the syndicate does not meet the suitability requirements; or
- iii) any member of the syndicate holds another sports bookmaking licence; or
- iv) any member of the syndicate is a member of another syndicate that holds a sports bookmaking licence; or
- v) the syndicate, or a member of the syndicate, has engaged in a prohibited act.

Subsection 4 (c) sets out the criteria for a corporation as –

- i) the corporation, any director of the corporation, or any influential shareholder of the corporation, does not meet the suitability requirements; or
- ii) the corporation, or any director of the corporation, has engaged in a prohibited act; or
- iii) any director of the corporation is not an individual or holds a sports bookmaking licence.

Subclause (4) (d) provides a criteria for mandatory licence cancellation where the licensee has not paid a fee payable under this Act in relation to the licence within the period it is required to be paid.

Subclause (5) provides a criterion for mandatory cancellation which apply to the licensee where the licensee holds a sports bookmaker's agent licence and;

- i) the licensee does not meet the suitability requirements; or
- ii) the licensee has not paid a fee payable under this Act in relation to the licence within the period it is required to be paid;
- iii) the licensee has committed a prohibited act.

Subclause (6) provides the meaning of prohibited act for the purposes of subclauses (4) and (5) as any of the following;

- i) engaging in sports bookmaking at a place other than a sports bookmaking venue;
- ii) contravening a direction given under clause 22 (1) to the licensee;
- iii) contravening the rules for sports bookmaking.

Subclause (7) provides that the commission may, despite subclause (1), instead of cancelling the licence, take other disciplinary action under clause 69, if the commission considers that, in the circumstances –

- i) the public interest does not require cancellation of the licence; and
- ii) cancellation of the licence would be an excessively severe penalty.

Clause 92

Subclause (1)

The words 'a person' are substituted for 'a relevant person'. This was a typographical error and the amendment gives meaning to Clause 92 (2) which describe a relevant person.

Clause 92

Subclause (1) (b)

The word 'has' is substituted 'for an individual – has' and requires that an individual has a reputation for sound character.

Clause 92

Subclause (1) (d)

For the purpose of suitability requirements for a relevant person, this subclause requires that the relevant person has not, within 5 years before the suitability requirements are applied, been convicted or found guilty of an offence against a

gaming law or a corresponding law prescribed under regulations. This subclause was amended to broaden the scope of this criterion to a Territory gaming law rather than being restricted to 'this Act' and requires a corresponding law to be prescribed.

Clause 92

Subclause (1) (f)

This subclause has been substituted and provides, in relation to suitability requirements, that a relevant person has not been convicted or found guilty either in Australia or foreign country, of an offence punishable by death or imprisonment, other than an offence that does not, having regard to all relevant circumstances, establish reasonable grounds for believing that the person is now of unsound character.

This clause was amended to remove the possibility that a relevant person may not meet the suitability requirements due to the fact that they had committed an offence that would be seen as trivial and in the case of a foreign country, committed an offence that carries the relevant penalty in that country but would not constitute an offence if committed in Australia or would be seen as a trivial matter.

Clause 93

For this Act, the nominated person, for a race bookmaker's agent licence or a sports bookmaker's agent licence, is the individual nominated in the application for the licence. This amendment simplifies the meaning of 'nominated person'.

Clause 93A

Subclause 93A (1) provides that a person is not excused from providing information or producing a document when required to do so under this Act on the ground that the information or document may tend to incriminate the person.

Subclause (2) provides that the information or production of the document or any other information, document or thing obtained as a direct or indirect consequence of providing the information or producing the document is not admissible in evidence against the person in a criminal proceeding.

Subclause (3) states that subsection (2) does not apply to a proceeding for any offence in relation to the false or misleading nature of the information or documents or an offence against the *Crimes Act 1900*, part 8.

Clause 93B

This clause provides that a person does not, in response to a requirement under this Act, make available information or a document or answer a question if the person is entitled to claim, and does claim, legal professional privilege in relation to the requirement.

Dictionary

Definition of *corporation*

Includes an entity that is, in relation to the corporation, a related body corporate as defined in the *Corporations Act*, section 9.

The amendment changes Corporations Law to Corporations Act and anticipates a Commonwealth Government amendment to that effect.

Dictionary**Definition of *influential shareholder*, paragraph (a)**

When read in conjunction with other parts of this definition, an influential shareholder of a corporation means a person who solely or with others, owns or has a beneficial interest in the voting shares in the corporation or, if the corporation has more than 1 class of shares, the voting shares in at least 1 of the classes.

Dictionary**Definition of *influential shareholder*, paragraph (c)**

When read in conjunction with other parts of this definition, an influential shareholder of a corporation means a person who solely or with others, own or has a beneficial interest in voting shares (the owned shares) in the corporation and can control or influence the way the voting rights are exercised in relation to other voting shares (the unowned shares) in the corporation if the total of the owned shares and the non-owned shares is 5% or more of the voting shares in the corporation or the total of the owned shares and the non-owned shares in a particular class of shares is 5% or more of the voting shares in the class.

Dictionary of *proprietary company*

See *Corporations Act*, section 9. The amendment changes *Corporations Law* to *Corporations Act* in anticipation of a Commonwealth Government amendment to that effect.

Dictionary**Definition of *sports bet***

Means a bet on, or in relation to a sports bookmaking event.

Dictionary**Definition of *voting share***

For the definition of 'influential shareholder', see *Corporations Act*, section 9. The amendment changes *Corporations Law* to *Corporations Act* in anticipation of a Commonwealth Government amendment to that effect.