

2011

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

**RACE AND SPORTS BOOKMAKING (VALIDATION OF LICENCES)
AMENDMENT BILL 2011**

EXPLANATORY STATEMENT

**Presented by
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Overview

This Explanatory Statement relates to the *Race and Sports Bookmaking (Validation of Licences) Amendment Bill 2011* (the Bill), as introduced into the ACT Legislative Assembly.

The Bill provides amendments to the principal Act, the *Race and Sports Bookmaking Act 2001*, to ensure the validity of bookmakers' licences that transitioned from the *Bookmakers Act 1985* (*repealed*) to the *Race and Sports Bookmaking Act 2001* on its commencement on 7 September 2001.

Doubt exists as to the validity of these bookmakers' licences as the transitional arrangements under Part 12 (Temporary Provisions) of the *Race and Sports Bookmaking Act 2001* and the associated section 9 (Modification of Act, Part 12, section 100(3)) of the *Race and Sports Bookmaking Regulation 2001* provided a six month expiry date from the commencement of the Act for the transitioning licences. It appears from Territory records that the relevant licences were not re-issued under the *Race and Sports Bookmaking Act 2001* within that six month transitional period and therefore doubt exists as to whether the licences that were treated as on-going following the commencement of the new Act were in fact valid after the six month expiry date.

This Bill ensures that all bookmaker activity and tax collections undertaken after that date under licences that were assumed to be valid were in fact legitimate. The Bill has been drafted to restore the relevant licences to a position that is as close as possible to that contemplated by the amending Regulation in 2001 in relation to the re-issue of licences. This has been achieved by deeming the transitioning licences to have commenced under the new Act on 7 March 2002 (ie. just before the proposed expiry date of 8 March 2002) for the full term of licence that would normally be issued.

However, the Bill provides that those shorter term licences (standing licence, bookmaker's agent's licence or sports bookmaker's agent's licence under the repealed Act) are taken to have expired less than the maximum period of five years if the original licence expired earlier. This drafting respects the decision of these bookmakers to choose at the time a shorter period for their licence. This provision does not relate to sports bookmakers as they have a fixed 15 year term.

Legislation that has a retrospective application should not be detrimental to any affected party. On the basis that all stakeholders, including wagering operators, punters, the gaming regulator and numerous businesses and financial institutions have assumed in good faith that the wagering licences purported to be issued were valid, it is considered that no party would be worse off by the decision to legitimise the licences. However, for complete certainty, the proposed Bill does not continue any licence that was cancelled, surrendered or expired by means other than by the application of section 9 of the *Race and Sports Bookmaking Regulation 2001*.

Outline of Amendments

Part 1 Preliminary

Clause 1 Name of Act

This Act is the *Race and Sports Bookmaking (Validation of Licences) Amendment Act 2011*.

Clause 2 Commencement

The Act commences on the day after its notification.

Clause 3 Legislation amended

The Act amends the *Race and Sports Bookmaking Act 2001* (the principal Act).

Part 2 Amendments to the Race and Sports Bookmaking Act 2001

Clause 4

This clause provides that new Part 20 is inserted into the principal Act.

Section 200 – Definitions – Part 20

Relevant definitions are added to Part 20 that cover references to previous legislation provisions and the applicable time period that is covered by the amendments.

Section 201 – Bookmakers Act licences – validation

Subsection 1 provides that this section applies to a licence that was in force under the repealed Act (ie. the *Bookmakers Act 1985*) immediately before it was repealed (ie. before 7 September 2001) and taken under former section 99(3) of the *Race and Sports Bookmakers Act 2001* to be an equivalent licence under this Act. What is covered by an equivalent licence is listed in the Note under subsection 1.

Subsection 2 places licensees into two broad categories in order to provide for their continuing operation. This subsection provides that despite the modification of former Part 12 of the Act by the modifying Regulation (ie. section 9 of the *Race and Sports Bookmaking Regulation 2001*):

- a) if a licence was a standing licence, bookmaker's agent's licence or sports bookmaker's agent's licence then the licence is taken to have continued in force for all purposes until the earlier of:
 - (i) the day the licence would have ended if the repealed Act had not been repealed; or
 - (ii) the end of 7 March 2007; or
- b) if the licence was a sports bookmaking licence the licence continues in force for all purposes until the end of 7 March 2017.

The two licence groups are treated differently because the licences listed in paragraph (a) had variable terms ranging from two to five years which were considered important to maintain as it was the licensee's choice for term of licence whereas sports bookmaking licences are all for a set 15 year period.

Subsection 3 supplements subsection 2 and has been included to remove any doubt by providing that anything done or omitted to be done, or purported to have been done or omitted to be done, by the Gambling and Racing Commission in relation to the licence in the relevant period (ie. from 8 September 2001 and ending on 30 June 2011) is taken to be, and always have been, validly done or omitted to be done. This provides that the regulator has undertaken all necessary tasks required during the period.

This subsection also provides from the licensee's perspective that any return, document or information required to have been given, or any fee required to have been paid, for or under the licence in the relevant period is taken to be given or paid as required. This ensures that licences have undertaken all of their tasks and that no inadvertent breaches are created by deeming the licences valid under subsection 2.

Subsection 4 provides that this section does not operate to continue a licence in force beyond the date when it was surrendered or cancelled, or purported to be surrendered or cancelled under this Act other than by the application of the modifying Regulation that is reversed by subsection 2. This ensures that all licences if surrendered or cancelled during the period are not inadvertently brought alive by this section.

Section 202 – Expiry – Part 20

This section provides that new Part 20 expires on the day it commences.

A note to the section points out that section 88 of the Legislation Act continues the effect of the validating law (in this case the Part 20 provisions) even though the enabling sections have been repealed. In other words, once the Part 20 provisions have had their effect they can be repealed from the Act.