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THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY

Gaming and Racing (Red Tape Reduction) Legislation Amendment Bill 2016

EXPLANATORY STATEMENT

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Gaming Machine (Red Tape Reduction) Legislation Amendment Bill 2016

INTRODUCTION

The *Gambling and Racing Control Act 1999* (the Control Act) provides the overarching legislative framework for gambling in the Territory. The Control Act established the ACT Gambling and Racing Commission (the Commission). The Gaming and Racing (Red Tape Reduction) Legislation Amendment Bill 2016 (Amendment Bill) amends part of the suite of legislation under the Control Act, namely the:

- *Gaming Machine Act 2004*;
- *Gaming Machine Regulation 2004*;
- *Race and Sports Bookmaking Act 2001*;
- *Race and Sports Bookmaking Regulation 2001*;
- *Racing Act 1999*; and
- *Racing (Race Field Information) Regulation 2010*.

The *Gaming Machine Act 2004* (Gaming Act) and the associated *Gaming Machine Regulation 2004* regulate the management, administration and conduct of persons involved in and participating with gaming machines in the Territory. The *Race and Sports Bookmaking Act 2001* (RSB Act) and the *Race and Sports Bookmaking Regulation 2001* provide for the regulation of race and sports bookmaking activities and venues in the Territory. The *Racing Act 1999* (Racing Act) and *Racing (Race Field Information) Regulation 2010* provide for the regulation of thoroughbred racing, harness racing and greyhound racing and establish the Racing Appeals Tribunal.

The Amendment Bill provides for a number of red tape reduction reforms. These reforms are balanced with the statutory obligations of the Commission. Under section 7 of the Control Act the Commission must exercise its functions in a way that best promotes the public interest, and in particular, as far as practicable:

(a) promotes consumer protection;
(b) minimises the possibility of criminal or unethical activity; and
(c) reduces the risks and costs, to the community and to the individuals concerned, of problem gambling.

OVERVIEW OF THE AMENDMENT BILL

Consistent with the ACT Government's commitment to reducing unnecessary red tape in the regulation of the gambling industry in the Territory, the Amendment Bill provides the following key features:

a. removing the regulatory requirement for licensees to display licences and authorisation certificates;
b. modifying the percentage payout signage requirements for gaming machines to an approved statement being displayed;

c. providing interstate visitor access to clubs without the need to be accompanied by club members;
d. clarifying arrangements to enable licensees to more easily quarantine authorisations for gaming machines from use;
e. implementing a simplified framework for race bookmaking licences and race bookmaker's agent licences, including mechanisms for renewal of licences to reduce the administrative and regulatory burden of licensing; and
f. providing minor and technical amendments to the Acts and associated regulations to:
    (i) aid in interpretation;
    (ii) clarify amendments made under *Gaming Machine (Reform) Amendment Act 2015*;
    (iii) address modifications made to the Gaming Act through the *Gaming Machine Regulation 2004*; and
    (iv) amend and update the correct nomenclature for certain boards, associations and interstate legislation.

The Amendment Bill provides that gambling operations and the regulatory provisions are, where possible, consistent with other gambling laws in the Territory and in step with other Australian jurisdictions, particularly New South Wales. Further, the Amendment Bill implements the Government response to recommendation 13 of the recent Public Accounts Committee (PAC) *Report 18 - Inquiry into elements impacting on the future of the ACT Clubs sector* (in relation to interstate visitor access to clubs).

HUMAN RIGHTS IMPLICATIONS

The Amendment Bill as a law of the Territory may be seen as engaging a number of rights in the *Human Rights Act 2004 (HR Act)*. An assessment of the Amendment Bill against section 28 of the *HR Act* is provided below for each of the provisions that may engage a potential limitation of a human right, namely the right to privacy and reputation, under section 12 due to the requirement to provide personal information, including criminal offences, for application processes.

Section 12 – Right to privacy and reputation

Section 12 (Privacy and reputation) of the *Human Rights Act 2004* provides that everyone has the right not to have his or her privacy, family, or home or correspondence interfered with unlawfully or arbitrarily, and not to have his or her reputation unlawfully attacked. The requirement to submit an application and consent to a police criminal check will impact on a person's human rights.

Any limitation on these rights is considered reasonable and proportionate, noting the statutory obligations imposed on the Commission under section 7 of the Control Act to exercise its functions in a way that best promotes the public interest while maximising consumer protection and minimising criminal or unethical activity. Section 28 of the *Human*

Rights Act 2004 provides that human rights are subject only to reasonable limits set by laws that can be demonstrably justified in a free and democratic society. Section 28(2) of the *Human Rights Act 2004* provides that in deciding whether a limit on a human right is reasonable, all relevant factors must be considered, including:

The nature of the right being limited

The Amendment Bill includes a number of provisions which require the submission of an application which may include personal information. The applicable clauses are 37, 38, 39, 40, 42, 43, and 48 and will affect the following persons under the RSB Act:

a. an applicant for a race bookmaking licence;
b. a nominated person for a race bookmaker's agent licence;
c. a race bookmaking licensee; and
d. a race bookmakers' agent licensee.

The clauses may be viewed as engaging the right to privacy and reputation as it will require that a person indicated above will need to disclose personal details as part of the application process. As there is also a requirement to consent to a police criminal check, this will include a person's criminal history.

The importance of the purpose of the limitation

The purpose of the limitation is of very high importance within the gambling industry and provisions of this nature are not uncommon in licensing legislation where, for the purposes of protecting the public, the integrity of applicants and licensees must be rigorously assessed. However, it is acknowledged that the degree to which that assessment must be undertaken is likely to be affected by the type of industry being regulated and different levels of licensing within the industry. This is extremely important for the gambling industry where there are different levels of risk applied to different categories of licensees. For example, due to the nature and range of patronage, access to products and monetary turnover, sports bookmaking is considered a higher risk in contrast to race bookmaking activities.

Notwithstanding this, it is in the public interest for consumer protection and minimising the infiltration of the industry by criminal aspects of society that gambling activities in the Territory are highly regulated. The behaviour of a person is fundamental to protecting the public and minimising criminal activities. The importance of this requirement should not be underestimated when assessing whether a person should be licensed to participate in the racing industry.

When developing the reforms for race bookmaking consideration was given to whether there were any less restrictive means to assess whether a person was suitable to be licensed, or to continue to be licensed, in the industry. While there are no other means available to achieve those outcomes certain measures and safeguards have been adopted to minimise the scope and possible impact on a person's right to privacy and reputation (discussed further below).

The nature and extent of the limitation

The right to privacy and reputation will be engaged for race bookmaking applicants and licensees to a higher degree than for race bookmaker's nominated persons and agents. This is primarily due to the requirements associated with ascertaining a race bookmaker's likely ability to pay bets which is a fundamental principle of race bookmaking activities. An applicant for a race bookmaking licence may be required to provide the Commission with information of business and financial matters. However, the Commission's reach in this regard is limited to those business and financial matters that are appropriately connected to the Commission's considerations about whether an applicant is likely to pay bets.

The right to privacy and reputation will be engaged by the requirement for consideration of the criminal history of an applicant or a licensee however, this is not without limitation. Assessment of criminal history has been constrained to ensure that the reach of time since an offence was committed is a reasonable time. This period of time has been set at five years. Other than the offences involving fraud or dishonesty, and an offence against a gaming law, the only offences that are considered relevant are those punishable by a period of at least one year's imprisonment. While it is noted that these timeframes may still involve a considerable range of offences, the amendment is a substantial improvement from the previous requirements under the RSB Act, which did not limit the time period for when an offence was committed and therefore subject to consideration, nor confine offences to the more serious spectrum of criminality.

While the Amendment Act provides that the offences must not be committed, this limitation has been moderated with the ability for the Commission to still deem a person as being suitable to hold a licence if it would not adversely affect the racing industry; and it is otherwise in the public interest to issue or renew the licence. The limitations therefore, are reasonable and proportionate to the risks.

The relationship between the limitation and its purpose

The gambling industry is highly regulated in the Territory as part of the statutory obligations imposed on the Commission under section 7 of the Control Act. The provisions to obtain information regarding criminal history, business and financial matters as part of an application process, to determine the past behaviour of an applicant or licensee and whether there is a reasonable likelihood of being able to pay bets, are directed at minimising criminal elements infiltrating the industry and at maximising consumer protection. Due to the nature of how race bookmakers operate, consideration must be given to the potential that a race bookmaker can be compromised if unable to pay debts. Unlike sports bookmakers, race bookmakers are individuals that often run a solo operation and therefore may be considered a 'soft' target for criminal elements of society. The scope of the criminal history for those participating in the industry, although at the higher level of criminality, is directed at ascertaining whether previous behaviour indicates a propensity for specific types of criminal activity.

Further the nature of the race bookmaking industry and the duties of race bookmakers and their agents are inherently connected with a higher risk of fraudulent or dishonest behaviour due to the amount of money that can be transacted. The requirements in the Amendment Bill about criminal history are therefore relevant to the Commission's statutory obligations for consumer protection.

The specific purpose of the requirement that a person has not been convicted or found guilty of an offence against a law about gaming is due to the way that the gambling suite of legislation is drafted. Breaches of gambling laws for people involved in the industry are predominately dealt with through disciplinary mechanisms – in other words handled administratively so a criminal offence will not apply. However, criminal offences for persons involved in the industry are normally reserved for those matters that are considered to be either a significant breach of the harm minimisation principles or are at the higher end of the spectrum to warrant criminal intervention. For example, accepting a bet placed by a child is not a matter that would warrant disciplinary action and prosecution action would be more appropriate. Therefore, gaming offences are matters that have a direct bearing on whether a person should be involved in the racing industry given the need to protect the consumer and minimise criminal activity and unethical behaviour. When viewed in context, gaming offences are also exceptionally rare and the inclusion of this requirement will have minimal to no bearing on a significant portion of the race bookmaking industry as matters are normally dealt with through disciplinary processes.

Further, it should also be noted that it is probable that an applicant or licensee is only going to have an outstanding amount owing to the Territory in those circumstances where a monetary penalty has been applied as a result of disciplinary action under Part 8 of the RSB Act or another Territory gaming law.

Less restrictive means reasonably available to achieve the purpose

It is considered that there are not any less restrictive means available to achieve the purpose of the Amendment Bill as the new framework for race bookmaking licensing is preferable to the existing provisions under section 92(1) of the RSB Act. The scope of the existing suitability assessments impose significant human rights impacts, which on the balance of the competing interests for regulating the race bookmaking industry with the risks posed to the community, cannot be considered reasonable.

While measures need to be in place to determine suitability to be involved in race bookmaking, the subjective tests relating to bookmakers and bookmaker's agents having a reputation for sound business conduct and sound character could not be justified. Those tests have been replaced with a factual requirement that a person must not have been convicted or found guilty of an offence involving fraud or dishonesty. This test has an inherent connectivity between a person to be licensed and the integrity of the gambling industry; and the need to protect consumers from fraudulent activity or dishonest behaviour.

The application of criminal offences and what is relevant for licensing for race bookmaking activities has also been significantly narrowed from the existing provisions. Offences that are

committed have been limited to a five year timeframe from the time of conviction or finding of guilt. As race bookmaking is considered to represent a lower risk than sports bookmaking and some other gambling licensees, it was considered unreasonable to apply convictions for criminal offences in perpetuity (noting restrictions under the *Spent Convictions Act 2000*).

It is considered that there is no other less intrusive way to establish a person's suitability, as criminal history is still the most appropriate way to determine what the possible risks would be to the community if a person was licensed, or whether there is an increased chance for criminal elements or unethical behaviour to infiltrate the racing industry. However, the licensing provisions have been reframed so that the reach of the current provisions which apply to any offence committed are significantly narrowed from existing provisions. Even though it is recognised that the Commission is limited to considering only those offences that are relevant to determining the suitability to be involved in the gaming industry - there must be an inherent connectivity between the duties for race bookmaking and the actual offence. For example, refusing a person a licence based on an offence for assaulting a person would not be a reasonable in the context of licensing in the gambling industry.

The Amendment Bill now also provides that all criminal offences, other than fraud, dishonesty or gaming offences, may only be taken into consideration by the Commission if the offence committed is punishable by imprisonment for a period of at least one year. This further restricts the types of offences that can be considered by the Commission by also limiting the offences to the higher spectrum of criminality where there is a higher risk to the integrity of the gambling industry. For example, offences relating to money laundering would be captured, however, offences in relation to vandalism or offensive behaviour would not. It is considered that the new arrangements will assist in minimising those circumstances where a person may be found unsuitable on the basis of a minor offence, while still balancing the Commission's statutory obligations under section 7 of the Control Act.

For a race bookmaking applicant and race bookmaker the focus has now been applied to the bookmaker's ability to pay bets, not to having a 'reputation for sound business conduct', as payment of bets is the fundamental purpose of bookmaking activities. This requirement provides the Commission with the necessary legislative framework to meet the Commission's statutory obligations to exercise its functions in the best way to promote the public interest for consumer protection under subsection 7(a) of the Control Act. Nominated persons for race bookmaker's agents are also currently required to meet business and financial requirements. These requirements have not been replicated as part of the reforms as they are not appropriate for this class of licensee.

The new ability to pay bets provision applies specific limitations to ensure that the Commission must consider the threshold test of whether an applicant is *likely* to be able to pay bets and not that this will definitely occur. The Commission must issue the licence if there are reasonable grounds for believing that payment of bets would occur. An assessment must be based on reasonable grounds and although the Commission may consider business and financial matters for an applicant for a new licence (note new section 7(3) of the Amendment

Bill) those matters are limited to only considering such business and financial matters relevant to ascertaining the ability to pay bets. Information that may come to the Commission's notice as a result of considering business and financial matters is not relevant if the purposes are not for determining the ability to pay bets and therefore it cannot be used. The ability to pay bets is a critical function of race bookmaking and has been applied in preference to the 'reputation for sound business conduct' as this criteria provided uncertainty to applicants on exactly what may be captured and too much discretionary scope for the Commission's decision making.

A number of mechanisms have been inserted to limit the human rights impact, including provisions for internal reviews and an independent arbiter as decisions can be reviewed by the ACT Civil and Administrative Tribunal (ACAT). Mechanisms have been provided to allow the Commission to minimise the instances where the treatment of applicants and licensees would otherwise be harsh and unjust. New subsection 7(7), 10B(7), 13(6) and 16B(7) have been inserted to provide that a licence may still be issued or renewed if the Commission is satisfied that the racing industry would not be adversely affected and it is otherwise in the public interest to do so. This has a positive effect for an applicant or licensee as the Commission must positively put their mind to these two tests if considering refusing to issue or renew a licence (noting a refusal is a reviewable decision). It is acknowledged that this provision does provide the Commission with some discretion however; the discretion is focused on providing an advantage to an applicant/licensee and is not a basis for excluding a person initially from being issued a licence. This approach was also considered the most appropriate safeguard where treatment of an applicant would otherwise be unreasonable without compromising the Commission's obligations under section 7 of the Control Act.

Finally, strong safeguards are in place for the handling, confidentiality, and permitted disclosures of information that the Commission acquires, as a result of exercising functions under, or in relation, to a gambling law under Division 4.4 (Secrecy) of the Control Act. Offence provisions apply for a person making a record of confidential information other than in accordance with their duties and unauthorised disclosure. The maximum penalty that can be applied is 50 penalty units, imprisonment for 6 months, or both. The provisions of the *Information Privacy Act 2014* also apply.

Accordingly, it is considered that any limitation on the right to privacy and reputation is reasonable and proportionate given the restrictions and safeguards imposed on the limitations, the tempering of otherwise harsh legislative arrangements from previous requirements and the need to ensure that the Commission can meet its statutory obligations imposed under section 7 of the Control Act.

CLAUSE NOTES

Part 1 Preliminary

Clause 1 Name of Act

This clause is a formal provision setting out the name of the Act as the *Gaming and Racing (Red Tape Reduction) Legislation Amendment Act 2016*.

Clause 2 Commencement

The Act, other than Schedule 1, will commence on 1 September 2016. Schedule 1 is to commence immediately after the commencement of Schedule 1 to the *Gaming Machine (Reform) Amendment Act 2015.*

Clause 3 Legislation amended

This clause provides that the *Gaming Machine Act 2004*, *Gaming Machine Regulation 2004*, *Race and Sports Bookmaking Act 2001*, *Race and Sports Bookmaking Regulation 2001*, *Racing Act 1999* and the *Racing (Race Field Information) Regulation 2010* are amended by the Act.

Part 2 Gaming Machine Act 2004

Clause 4 Class C licence application – contents
Section 16(h)(ii), new note

This note has been inserted to provide clarity that information required to be submitted as part of an application by an Class C licence applicant under paragraph 16(h)(ii) of the *Gaming Machine Act 2004* does not include information pertaining to temporary members. New temporary membership arrangements are included under clause 11 of the Amendment Bill.

Clause 5 Authorisation certificate for class C gaming machines – decision on application
Section 23(5)(c), new note

Clause 5 provides a note to existing paragraph 23(5)(c) of the *Gaming Machine Act 2004* to make it clear that the number of club members worked out under a regulation to determine the maximum number of authorisations for gaming machines does not include temporary members as part of the assessment. New temporary membership arrangements are included under clause 11 of the Amendment Bill.

Clause 6 Authorisation certificate amendment decision – increase maximum amendment
Section 37(5)(a), new note

This note has been inserted to make it clear the Commission must not consider temporary members when deciding the number of club members for the maximum number of authorisations for gaming machines when a licensee seeks to increase the maximum number under an authorisation certificate. New temporary membership arrangements are included under clause 11 of the Amendment Bill.

Clause 7 Licences and authorisation certificates – register
Section 37H(2)(d)

Clause 7 provides a technical amendment to paragraph 37H(2)(d) to clarify the types of information required to be recorded on the licences and authorisation certificates register, relating to when a licensee holds a permit. The amendment is consequential to clause 17 of the Amendment Bill which removes all doubt that a quarantine permit can apply to an authorisation when it is not stored with a gaming machine.

Clause 8 Sections 41 and 42

Clause 8 provides for revised section 41 and section 42 of the Gaming Act. The existing requirement under section 41 that a licensee must display a copy of the licence and authorisation certificate in a prominent position at the main entrance to each gaming area is removed. With the removal of the display requirements, new section 41, previously section 42, includes that it is a condition of a licence that licensees should retain a copy of the licence at the premises to which the authorisation certificate applies. The premises is the location where the gaming machines may be operated. The requirement to keep a copy of the authorisation certificate, including the authorisation schedule, is retained.

With the removal of the requirement to display licences and authorisation certificates at the relevant premises new subsection 42(1) provides that a licensee must allow a person to view the licence and authorisation certificate if so requested. This will enable a person to readily ascertain the maximum number of gaming machines a licensee is entitled to hold at the premises, albeit that there may be less gaming machines in actual operation (for example some machines may be in storage).

As an authorisation schedule contains technical information on each individual gaming machine, new subsection 42(2) provides that a licensee is not required to show the schedule to a person as part of the request to view the authorisation certificate. New subsection 42(2) also makes it clear that an authorised officer of the Commission may view an authorisation schedule if that officer makes the request as part of exercising their functions under the Control Act.

To minimise the circumstances where a licensee could inadvertently breach a condition of their licence new subsection 41(2) and new subsection 42(3) of the Amendment Bill make it clear that a licensee will not breach the condition if a copy of the licence or authorisation certificate is if lost, stolen or destroyed. However, for the provision to apply the licensee must have provided the Commission with a statement verifying the loss, theft or destruction of the documents and the Commission has not yet provided the licensee with a replacement. This subsection should be read in conjunction with existing section 37I of the Gaming Act.

Clause 9 Section 45

Clause 9 provides a technical amendment to section 45 of the Gaming Act to clarify that existing paragraph 45(1)(a) and paragraph 45(1)(b) should not be read cumulatively. The giving of an installation certificate to the Commission is not dependent on the Commission giving the licensee a notice under section 124 of the Act. Section 45 has been restructured to

provide clarity that an installation certificate must be supplied to the Commission if a notice has been given to the licensee by the Commission; a gaming machine has been installed on the premises or when a technical amendment has been made to a gaming machine. A technical amendment is an amendment under section 37B of the Gaming Act. The existing requirement to give the certificate to the Commission within three days is retained.

Clause 10 Section 48

Clause 10 amends the requirement that it is a condition of a licensee's licence to clearly display signage on each gaming machine that indicates the percentage payout for that gaming machine. Amended section 48 provides that the requirement to display signage is connected to a statement approved by the Minister under section 126. Licensees will be required to clearly display the approved statement on each gaming machine.

Clause 11 New section 54A

Clause 11 inserts new section 54A to allow for the introduction of temporary membership arrangements for clubs. To support the mutuality status of clubs, the new provision adopts the current requirements that clubs are for members and members' guests. New paragraph 54A(1)(a) of the Amendment Bill provides for a local guest, defined under new section 54A(3) as an ACT resident who is not a member, who is signed-in by a club member of the club.

New paragraph 54A(1)(b) of the Amendment Bill provides that an interstate guest, as defined under new section 54A(3) as a person who is not a resident of the ACT nor a member of the club, can attend a club and sign in themselves. This means that the interstate guest is not required to be accompanied by a club member to gain access to the club. The interstate guest may be admitted to the club as a temporary member if they sign in. This provision does not constrain a licensee's ability to refuse to issue a temporary membership, for example if the person is unable to provide evidence that they reside interstate.

Licensees are not permitted to charge an interstate guest a membership fee or allow a temporary member to be a voting member of the club. The intention of this provision is to ensure that temporary members are not taken into account when establishing the number of gaming machines that a club may be authorised to hold. The revised definition of a member, in clause 28 of the Amendment Bill, also expressly provides that a temporary member is not a member of a club.

Clause 12 Other conditions of club licences
Section 55(f) and (g)

This clause is consequential to the amendments made at clause 11 of the Amendment Bill. New subsection 55(f) confirms that only members, temporary members and signed-in guests can play gaming machines in the club. This provision incorporates the existing subsection 55(g) and accommodates the introduction of temporary memberships. Previous subsection 55(f) of the Gaming Act is obsolete as new subparagraph 54A(1)(a)(ii) requires that signed-in guests be accompanied by a member.

Clause 13 Section 104, heading

This clause provides for the new heading, Offence-operating unauthorised, stored or quarantined gaming machines, for section 104 of the Gaming Act.

Clause 14 Section 104(2)(b) and (c)

Clause 14 is a technical amendment to omit the word 'storage' so the provision is consistent with the definition of a 'permit'. There has been no extension of this offence provision - note existing subparagraph 127S(1)(b)(viii) of the Gaming Act.

Clause 15 Destruction of gaming machines – commission's attendance
Section 113B(1) and note

Clause 15 provides a technical amendment to make it clear that the commission may attend the destruction of a gaming machine under both section 113 and section 113A of the Gaming Act. The insertion of section 113A under the *Gaming Machine (Reform) Amendment Act 2015* inadvertently created uncertainty by providing an express provision for attending destruction of machines in the circumstances listed under section 113A. The Commission has had the ability to attend destruction action when an approval is given under section 113 of the Gaming Act through the approval process however, the amendment will now provide for this expressly to remove all doubt.

Clause 16 Section 126

This clause amends existing section 126 of the Gaming Act and is consequential to clause 10 of the Amendment Bill. The Minister may approve a statement for display on each gaming machine at authorised premises. This amendment will enable the display of consistent harm minimisation messaging on gaming machines. Due to the importance of this requirement the ability to approve the statement is retained by the Minister.

There is no longer a requirement concerning the position for display of this type of signage to be approved by the Commission as amended section 48 provides for the clear display of any approved statement. The requirement that an approval under subsection 126(1) is a notifiable instrument has been retained.

Clause 17 Quarantine permits – notification and issue
Section 127Q(1) and (2) and notes

Clause 17 combines existing paragraphs 127Q(1)(a) and 127Q(1)(b) of the Gaming Act into the new paragraph 127Q(1)(a). New paragraph 127Q(1)(b) of the Gaming Act now makes it clear that a licensee can quarantine authorisations, without the gaming machine, for a period agreed to by the Commission.

New subsection 127Q(2) is consequential to the amendment at new subsection 127Q(1) of the Gaming Act and makes it clear that the licensee must notify the Commission if the licensee needs a quarantine permit to store gaming machines and authorisations or authorisations (without an associated gaming machine).

Clause 18 Section 127S

This clause has been re-drafted to provide clarity and confirm the kinds of permits and information that applies to section 127S of the Gaming Act. The only change to new section 127S from the existing provision is the insertion to expressly provide that a quarantine permit may quarantine authorisations without a gaming machine, and if so, the authorisation number must be provided for the authorisation to be quarantined.

Clause 19 Permit – conditions
New section 127T(1)(j)

Clause 19 inserts a new paragraph 127T(1)(j) into the Gaming Act to provide that a licensee must not acquire a gaming machine against a quarantined authorisation during the period which the authorisation is under a quarantine permit. This new paragraph is consequential to clauses 7, 17 and 18 of the Amendment Bill and is consistent with the policy implemented under the *Gaming Machine (Reform) Amendment Act 2015* that quarantining is to prevent gaming machines becoming operational for a minimum period of 12 months.

Clause 20 Permit amendment – notification
Section 127X(1)(a), new note

This clause provides a new note to assist the interpretation of the provisions under the Gaming Act for permit amendments. The note alerts the reader to the requirement that disposal action under section 113A must also be notified to the Commission.

Clause 21 Section 127Y

Clause 21 amends existing section 127Y of the Gaming Act to include that the Commission may amend a permit if notified by a licensee under section 113A of the Gaming Act of the disposal of gaming machines.

Clause 22 Trading authorisations under permits – procedure
Section 127ZB(2)(b), except notes

This clause is consequential to clauses 7, 17 and 18 of the Amendment Bill and gives effect to the ability of a licensee to quarantine authorisations without a gaming machine being attached to an authorisation when trading under Division 6A.6 of the Gaming Act.

Clause 23 Section 127ZD

This clause is consequential to clauses 7, 17, 18 and 22 of the Amendment Bill and makes it clear that the Commission must issue to an acquiring licensee a quarantine permit for an authorisation and an authorisation with an associated gaming machine if notified of a trade. The requirement that the re-issue of the quarantine permit to the acquiring licensee must be equal to the time remaining on the disposing licensee's quarantine permit for the authorisation is retained under subsection 127ZD(3).

Clause 24 Gaming machines and authorisation under permits – inspection
Section 127ZE(1), except note

Clause 24 has been redrafted to provide clarity on what the Commission may inspect when storage arrangements occur. The existing provision under subsection 127ZE(1) included the

ability of an authorised officer of the Commission to inspect authorisations. This provision has been amended to more correctly reflect that the inspection relates to the permit and gaming machines and not authorisations. Information relating to authorisations is recorded on the register and therefore this requirement is obsolete.

Clause 25 Audit of financial statements etc
Section 158(2)(a), new note

Clause 25 provides a note to existing paragraph 158(2)(a) of the Gaming Act to make it clear that the report on the number of club members, including the different classes of members, does not include temporary members as part of the reporting requirement. The clause is consequential to the introduction of temporary membership arrangements under clause 11 of the Amendment Bill. The reporting of temporary members would be an unnecessary administrative burden given that temporary members have no ability to vote or be included in the calculation of the number of permissible gaming machines.

Clause 26 Section 170

This clause provides a technical amendment to existing section 170 of the Gaming Act. As a result of the *Gaming Machine (Reform) Amendment Act 2015* a new licensing framework was implemented that applied the concepts of a licence and an authorisation certificate. Section 170 has been amended to reflect that club ownership is no longer linked to a single licence. The effect is, if a Class C licensee is a corporation that operates multiple clubs with gaming machines, when working out the community contribution for a club operated by the corporation, the common expenditure must be allocated between the clubs in proportion to the number of gaming machines operated at each club. 'Operation' of gaming machines is not to be taken as the number of machines that a corporate entity may hold under an authorisation certificate.

The amendment does not change the current arrangements under section 170 of the Gaming Act for assessing community contributions common expenditure and is only available to those clubs that are operated by a licensee that is the same corporate entity.

Clause 27 New sections 309A and 309B

The *Gaming Legislation Amendment Regulation 2015 (No 1)* provided an amendment to modify two provisions of the Gaming Act - Schedule 1 inserted new section 309A and section 309B. Subsection 310(2) of the *Gaming Machine (Reform) Amendment Act 2015* provided that a regulation may modify the transitional arrangements established in Part 20 to make provision in relation to matters that are not, or are not adequately or appropriately, dealt with in that Part. Section 309A and section 309B have now been relocated from the *Gaming Machine Regulation 2004* to the Gaming Act in line with good drafting practice. There is no change to the provisions themselves.

Transitional arrangements for in-principle approvals are provided at section 306 to section 309 of the Gaming Act. New section 309A has been inserted to provide a necessary transitional arrangement for a conversion of an in-principle approval. This is to retain the right for an existing in-principle approval granted under the Act to be converted. The current

transitional arrangements under the Amendment Act only cater for those situations where an application was received by the Commission prior to the commencement of the Amendment Act.

New subsection 309B provides that the Commission must issue a storage permit for a general purpose equal to the remaining approved storage period, up to a maximum of 12 months, where prior to the commencement of the Amendment Act the Commission had approved the temporary storage of gaming machines under a licence. This is to enable a seamless transition for the temporary storage of gaming machines under the new licensing and authorisation framework and minimise the occurrences where a licensee may inadvertently be committing an offence under the Act.

Clause 28 Dictionary, definition of *member*

This clause revises the definition of a member and is consequential to the insertion of new temporary membership arrangements for clubs under clause 11 of the Amendment Bill. Temporary members are not voting members and are not included in any calculation of the number of permissible gaming machines for a club.

Clause 29 Dictionary, new definitions

This clause provides that the definition of a signed-in guest and temporary member are provided for under section 54A of the Gaming Act. The new definitions of a signed-in guest and temporary member are consequential to the insertion of new temporary membership arrangements for clubs under clause 11 of the Amendment Bill.

Part 3 Gaming Machine Regulation 2004

Clause 30 Working out club members – Act, s23(5)(c) and s37(5)(a) Section 7(1), new note

The note for this clause is consequential to clause 11 of the Amendment Bill which introduces temporary membership provisions for clubs. This note has been inserted to make it clear that temporary members are not to be included when working out club members for a stand-alone club as there is a prohibition on temporary memberships being fee paying members of a club.

Clause 31 Section 70A heading

The new heading for section 70A of the *Gaming Machine Regulation 2004* is consequential to the amendment at clause 18 of the Amendment Bill which has resulted in the renumbering of provisions within section 127S of the Gaming Act.

Clause 32 Transitional – Gaming Legislation Amendment Regulation 2015 (No 1) Part 15

Clause 33 Modification of Act Schedule 1

Clause 32 and clause 33 repeal Part 15 and Schedule 1 to the *Gaming Machine Regulation 2004* and are consequential to clause 27 of the Amendment Bill which relocates section 309A and section 309B into the Gaming Act.

Clause 34 Dictionary, note 3

Note 3 for the dictionary to the *Gaming Machine Regulation 2004* provides that the terms used in the Regulation have the same meaning as they have in the *Gaming Machine Act 2004*. This clause inserts the terms: member; signed-in guest; and temporary member and is consequential to clause 11 of the Amendment Bill which inserts new temporary membership arrangements in new section 54A of the Gaming Act.

Clause 35 Dictionary, definition of *patron*

This clause provides for the new definition of what constitutes a patron of a club and is consequential to clause 11 of the Amendment Bill which inserts new temporary membership arrangements in new section 54A of the Gaming Act.

Part 4 Race and Sports Bookmaking Act 2001

This Part primarily provides for the new framework to issue and renew a race bookmaking licence and a race bookmaker's agent licence. These provisions significantly narrow the information required from the previous provisions for applicants and licensees in this sector of the gambling industry. The framework has been designed to provide flexibility to the Commission when assessing applications and includes the removal of subjective suitability tests, previously included under section 92 of the RSB Act, to provide more fairness to applicants and licensees. The Commission will be able to licence racing activity based on the risk posed to the community without compromising the integrity of the racing industry.

Although it was considered that less stringent requirements could be adopted for race bookmaking licensing arrangements this is within the context of involvement in the gambling industry overall. For example, the low risk posed by these types of licensees as opposed to sports bookmakers. The reframing of the licensing arrangements, and the introduction of a renewal system, does not correlate to a lessening of the requirements to such an extent that automatic renewal of licences would be justified. Accordingly, the suitability criteria for renewal of race bookmaking licences is based on those risks posed to the industry and the Commission's requirements to meet their statutory obligations.

The powers introduced under Part 4 have been conferred on the Commission due to the existing operational nature of the provisions, the desire to have clear administrative review arrangements in place, and the fact that the powers to be exercised would be subject to clear tests before the issue, renewal or refusal action could be taken. Necessary safeguards for the

exercise of powers have been included as actions taken must be reasonable and decisions will be subject to review by ACAT.

This Part has impacts on the rights and freedoms under the *Human Rights Act 2004* and is discussed in detail at the beginning of this Explanatory Statement in the section titled *Human Rights Implications*.

Clause 36 New section 4B

This clause relocates the meaning of a security guarantee for a race bookmaking licence at existing section 92(3) to new section 4B of the RSB Act. The relocation enables all matters relating to whether a person is eligible for a race bookmaking licence to be provided within the same Part of the RSB Act. There has been no change in the drafting of this provision.

Clause 37 Application for race bookmaking licence
Section 6(2)

Clause 37 provides an amended subsection 6(2) of the RSB Act for the requirement that an applicant for a race bookmaking licence must provide consent to a police officer checking an applicant's criminal record and reporting the results back to the Commission. This is an existing requirement for all applicants under the RSB Act and is consistent with the requirement for all persons licensed to conduct gambling activities within the ACT. This section should be read in conjunction with the revised section 7 of the RSB Act.

Clause 37 may engage section 12 of the *Human Rights Act 2004* – the right to privacy and reputation, discussed above in the section titled, *Human Rights Implications*. The provision enables the Commission to seek an applicant's criminal history to establish whether the person is an eligible person to hold a race bookmaking licence. While the remodelling of the licensing framework has occurred to allow assessment of applicants to be more flexible, gambling activities and licensing of those people involved in the industry is highly regulated to maximise consumer protection, and minimise criminal activity and unethical behaviour, which are all statutory obligations imposed on the Commission under section 7 of the Control Act. The existing requirement to require consent to a police check being conducted is considered reasonable and proportionate to addressing those risks and to maintain the integrity of the industry.

The behaviour of a person is fundamental to protecting the public and minimising criminal activities. Even though this provision may engage section 12 of the *Human Rights Act 2004*, due to the nature of the industry there is no other alternative means to achieve the required safeguards. However, as noted below in the explanation for clause 38, specific safeguards and limitations have been placed around the use of information obtained from a criminal record that were not previously available.

Clause 38 Section 7

This clause provides the fundamental regulatory framework for the Commission to assess whether a person is suitable to hold a race bookmaking licence. It is appropriate that the commission exercise the powers for issue or refusal of a race bookmaking licence as the

independent regulator, established by and granted powers by the ACT Legislative Assembly, and bound by statutory limits, including the provisions of the Control Act.

In addition, the power granted to the Commission is not unfettered as the Commission is bound to consider those matters and is specifically constrained by new subsection 7(2) on the matters that may be considered. This is consistent with the reframing of suitability requirements, previously provided at existing subsection 92(1) of the RSB Act, to remove subjective tests associated with "reputation for sound business conduct" and "reputation for sound character".

New subparagraph 7(2)(a)(i) allows consideration to be given where a person has been convicted, or found guilty, of offences involving fraud or dishonesty, or an offence against a gaming law. Consideration of the offence for whether the person is an eligible person must only take place if the conviction or finding of guilt occurred within the last five years. Commencement of the five years should be considered as relevant from the date of application. These types of offences have been included due to the inherent connectivity between the licence and the integrity of the gambling industry.

The reframing of new subparagraphs 7(2)(a)(ii) and 7(2)(a)(iii) now also limits the convictions and finding of guilt within the last five years where an offence was punishable by imprisonment for at least one year. The existing section 92(1) of the RSB Act did not provide a limitation on which offences could be considered by not imposing a period for applicable offences, nor provide a guide that a penalty of imprisonment must be for at least one year. The revised clauses have been applied to minimise those circumstances where a person may be refused a licence for a minor offence. It is the policy intention that a person should not be automatically prohibited and penalised from undertaking new careers at different ages when the offences committed by the applicant may have been in very different circumstances, such as when the person was relatively young.

The possession of a criminal history under these provisions does not necessarily make the person an ineligible person. Consideration by the Commission of the actual offences that an applicant may have been convicted or found guilty of does not occur in a vacuum. Offences will only be relevant to the extent that there is an inherent connectivity between the criminal history of the person and the regulation of the gambling industry. Decisions by the Commission must be justifiable and not harsh or unreasonable and specific safeguards for internal review of decisions and under the *ACT Civil and Administrative Tribunal Act 2008* to maximise those principles have been applied.

New paragraph 7(2)(iv) reflects paragraph 92(1)(e) of the RSB Act and re-applies the requirement that applicants must not owe an amount payable to the Commission or the Territory under a ACT gaming law. This requirement is reasonable and proportionate given the risks associated with the ability of licensees to pay bets when they fall due. This is a fundamental principle associated with bookmaking activities and accords with the Commission's statutory obligations to exercise its functions in the best way to promote the public interest for consumer protection under subsection 7(a) of the Control Act. This

provision is also connected to, and should be read in conjunction with, new paragraph 7(2)(b) and new subsection 7(3).

New paragraph 7(2)(v) retains the existing requirements under paragraph 92(1)(i) of the RSB Act which require race bookmakers to provide evidence of an acceptable security guarantee. This paragraph only applies if a minimum amount has been determined by the Commission under section 90 of the RSB Act.

New paragraph 7(2)(b) provides that the Commission must consider whether an applicant is *likely* to be able to pay bets. This must be based on reasonable grounds and new subsection 7(3) provides that the Commission may consider business and financial matters of the applicant as appropriate. The threshold test is that the person is *likely* to pay bets, not that that it will definitely occur, and that it is reasonable to believe that bets would be paid. The Commission would not be able to refuse to issue the licence if there was not a reasonable ground or if it was inappropriate to do so.

The Commission is limited to only considering such business and financial matters to ascertain the ability to pay bets. Information that may come to the Commission's notice as a result of considering business and financial matters are not relevant if the purposes are not for determining the ability to pay bets and therefore cannot be used for other purposes. Such use would be unjust and outside of the power granted by the ACT Legislative Assembly to the Commission.

The payment of bets is a fundamental requirement associated with bookmaking activities and provides the Commission with the necessary legislative framework to meet the Commission's statutory obligations to exercise its functions in the best way to promote the public interest for consumer protection under subsection 7(a) of the Control Act. The provision also provides the necessary safeguards and balance to the competing priorities for consumer protection and minimising the occurrences where treatment of an applicant would otherwise be harsh and unjust.

New subsections 7(4) to 7(6) are the existing subsections 7(2) to 7(4) of the RSB Act and provide the procedural fairness mechanisms to ensure that the exercise of the Commission's power under section 7 of the RSB Act must be reasonable and must be appropriately based on evidence justifying such action. New subsection 7(4) provides that the Commission must notify in writing the applicant about each matter that the Commission is not satisfied about under new subsection 7(2) and advise the applicant of their rights. The rights for an applicant are provided for at new subsection 7(5): the applicant may make written or oral representations (including by an authorised representative) to the Commission about the matters raised by the Commission; and the timeframe for those representations or any longer period as provided by the Commission is established.

New subsection 7(6) further provides that the Commission must take into account any representations made by the applicant and any other relevant material information available to the Commission – noting the limitations above on the information that may be considered

by the Commission and the requirement that information must also be relevant for the purposes. The Commission must either issue the race bookmaking licence if the Commission is satisfied on the matters raised or refuse to issue the licence. A refusal to issue the licence is a decision that can be reviewed internally and by ACAT. Subsection 7(6) must be read in conjunction with *Part 10 - Notification and review of decisions* under the RSB Act.

New subsection 7(7) of the Amendment Bill introduces a mechanism to allow the Commission to issue a licence notwithstanding that an applicant may not meet the suitability requirements under section 7. New subsection 7(7) establishes that the Commission may still issue the licence if is satisfied that the racing industry would not be adversely affected and it is otherwise in the public interest. This provision provides the Commission with the discretion to consider all the circumstances and what is reasonable, in light of the public interest, in deciding whether an applicant should be issued a licence. A decision to deem an individual as still not being an eligible person, which subsequently results in the Commission refusing to issue the licence, would still be a reviewable decision as the decision is the refusal to issue a licence. The insertion of this provision is intended to address those instances where a decision to refuse a licence would, in all the circumstances, otherwise be harsh or unreasonable.

In developing new section 7, consideration was given to whether there was less restrictive means available to assist in establishing whether a person was eligible to be involved in race bookmaking activities. The gambling industry is highly regulated and unforeseen issues can arise which can affect the public interest, consumer protection and infiltration of the industry by criminal aspects of society. However, it was considered that less stringent requirements could be adopted for race bookmaking licensing arrangements and a number of reforms have been adopted.

A number of mechanisms have been inserted to limit the human rights impact, including more appropriately targeted criteria for assessment that is inherently connected to the duties of race bookmakers and consideration of the likely ability to pay bets must be reasonably based. The limitations imposed on the types of criminal offences and the timeframes for considering offences based on when the offences were committed are sufficiently restrictive and have the necessary additional oversight of an independent arbiter, as reviewable decisions by ACAT.

Finally, providing the Commission with the ability to still issue a licence if the industry will not be adversely affected, and it is in the public interest to do so, maximises the Commission's ability to provide regulatory fairness to persons that would otherwise be excluded from involvement in the racing industry. While there is some discretion attached to the decision making on the assessing the criteria for the tests, it is considered that there was no other reasonable alternative to meet the competing needs of the Commission's statutory obligations under section 7 of the Control Act and the ability to provide fairness to the applicant in a highly regulated environment.

For the reasons indicated above it is considered that any human right limitations arising from new subsection 6(2) and new section 7 are reasonable and proportionate (also discussed above in *Human Rights Implications*).

Clause 39 New sections 10A and 10B

This clause inserts the new framework to provide for the renewal of race bookmaking licences as part of the red tape reforms for the gambling industry. New subsection 10A(1) provides that a race bookmaker may apply to the Commission to renew their licence. Licences under this provision may be issued for a period of not longer than 3 years. The term of the licence is consistent with other licensing arrangements across the suite of gambling legislation.

New subsection 10A(2) provides the requirements for what must be included in the application and that the renewal application must be received by the Commission at least 30 days before the licence expires. The Commission may also extend the time for making the application. This provision has been inserted to minimise those consequences for a licensee where they may not be able to submit an earlier application due to circumstances beyond their control. New subsection 10A(4) also provides further protection to a licensee to enable them to continue to conduct race bookmaking activities by providing that a licensee's licence will remain in force until the application for renewal has been decided.

New section 10A may engage section 12 of the *Human Rights Act 2004* – the right to privacy and reputation, discussed above in the section titled, *Human Rights Implications*. The provision enables the Commission to seek a licensee's criminal history to establish whether the licensee is an eligible to renew a race bookmaking licence. There is also an application process which may contain personal information. While the remodelling of the licensing framework has occurred to allow assessment of licensees to be more flexible, gambling activities and licensing of those people involved in the industry is highly regulated to maximise consumer protection, and minimise criminal activity and unethical behaviour, which are all statutory obligations imposed on the Commission under section 7 of the Control Act. The requirement to require consent to a police check being conducted is considered reasonable and proportionate to addressing those risks and to maintain the integrity of the industry.

The behaviour of a licensee is fundamental to protecting the public and minimising criminal activities. Even though this provision may engage section 12 of the *Human Rights Act 2004*, due to the nature of the industry there is no other alternative means to achieve the required safeguards. However, as noted below in the explanation for new section 7 specific safeguards and limitations have been placed around the use of information from an application or a criminal record.

New section 10B provides the framework for the Commission to assess whether a licensee is suitable to renew a race bookmaking licence. It is appropriate that the commission exercise the powers for renewal or refusal of a race bookmaking licence as the independent regulator, established by and granted powers by the ACT Legislative Assembly, and bound by statutory limits, including the provisions of the Control Act.

In addition, the power granted to the Commission is not unfettered as the Commission is bound to consider those matters and is specifically constrained by new subsection 10B(3) on the matters that may be considered, noting that new subsection 10B(2) places a positive obligation on the Commission not to consider an application unless a police report is received.

New subparagraph 10B(3)(a)(i) allows consideration to be given where a licensee has been convicted, or found guilty, of offences involving fraud or dishonesty, or an offence against a gaming law. Consideration of the offence for whether the licensee is an eligible person must only take place if the conviction or finding of guilt occurred within the last five years. These types of offences have been included due to continuing relevance and the inherent connectivity between the licence and the integrity of the gambling industry.

New subparagraphs 10B(3)(a)(ii) and 10B(3)(a)(iii) also limit the convictions and finding of guilt within the last five years where an offence was punishable by imprisonment for at least one year and is consistent with the reforms applied at new section 7. The clauses have been inserted to minimise those circumstances where a licensee may be refused a licence for a minor offence. It is the policy intention that a licensee should not be automatically prohibited and penalised from continuing to undertake their careers for relatively minor offences.

The possession of a criminal history under these provisions does not necessarily make the licensee an ineligible person. Consideration by the Commission of the actual offences that a licensee may have been convicted or found guilty of does not occur in a vacuum. Offences will only be relevant to the extent that there is an inherent connectivity between the criminal history of the licensee and the regulation of the racing industry. Decisions by the Commission must be justifiable and not harsh or unreasonable and specific safeguards for internal review of decisions and under the *ACT Civil and Administrative Tribunal Act 2008* to maximise those principles have been applied.

New subparagraph 10B(3)(a)(iv) re-applies the existing requirement that licensees must not owe an amount payable to the Commission or the Territory under a ACT gaming law. This requirement is reasonable and proportionate given the risks associated with the ability of licensees to pay bets when they fall due. This is a fundamental principle associated with bookmaking activities and accords with the Commission's statutory obligations to exercise its functions in the best way to promote the public interest for consumer protection under subsection 7(a) of the Control Act. Given how the gaming suite of legislation is structured it is probable that any outstanding amounts in this regard are likely to be as a result of disciplinary action being taken.

New subparagraph 10B(3)(a)(v) retains the existing requirements under the RSB Act which require race bookmakers to have provided evidence of a security guarantee. This paragraph only applies if a minimum amount has been determined by the Commission under section 90 of the RSB Act.

New paragraph 10B(3)(b) provides that the Commission must consider whether the licensee is *likely* to be able to pay bets. This must be based on reasonable grounds and the threshold test is that the licensee is *likely* to pay bets, not that that it will definitely occur, and that it is reasonable to believe that bets would be paid. The Commission would not be able to refuse to renew the licence if there was not a reasonable ground to do so.

The payment of bets is a fundamental requirement associated with bookmaking activities and provides the Commission with the necessary legislative framework to meet the Commission's statutory obligations to exercise its functions in the best way to promote the public interest for consumer protection under subsection 7(a) of the Control Act. The provision also includes the necessary safeguards and balance to the competing priorities for consumer protection and minimising the occurrences where treatment of a licensee would otherwise be harsh and unjust.

New subsections 10B(4) to 10B(6) provide the procedural fairness mechanisms to ensure that the exercise of the Commission's power under section 10B of the RSB Act must be reasonable and must be appropriately based on evidence justifying such action. New subsection 10B(4) provides that the Commission must notify in writing the licensee about each matter that the Commission is not satisfied about under new subsection 10B(3) and advise the licensee of their rights. The rights for a licensee are provided at new subsection 10B(5): the licensee may make written or oral representations to the Commission (including by an authorised representative) about the matters raised by the Commission; and the timeframe for those representations or any longer period as provided by the Commission is established.

New subsection 10B(6) further provides that the Commission must take into account any representations made by the licensee and any other relevant material information available to the Commission – noting the limitations above on the information that may be considered by the Commission and that information must be relevant. The Commission must either renew the race bookmaking licence if the Commission is satisfied on the matters raised or refuse to renew the licence. A refusal to renew the licence is a decision that can be reviewed internally and by ACAT. Subsection 10B(6) must be read in conjunction with *Part 10 - Notification and review of decisions* under the RSB Act.

New subsection 10B(7) of the Amendment Bill continues the mechanism introduced under subsection 7(7) to allow the Commission to renew a licence notwithstanding that the licensee may not meet the suitability requirements under subsection 10B(3). New subsection 10B(7) provides that the Commission may still renew the licence if is satisfied that the racing industry would not be adversely affected and it is otherwise in the public interest. This provision provides the Commission with the discretion to consider all the circumstances and what is reasonable, in light of the public interest, in deciding whether a licensee should remain licensed. A decision to deem a licensee as still not being an eligible person, which subsequently results in the Commission refusing to renew the licence, would still be a reviewable decision as the decision is the refusal to renew the licence. The insertion of this provision is intended to address those instances where a decision to refuse to renew a licence would, in all the circumstances, otherwise be harsh or unreasonable.

As noted above in new section 7, when developing the legislation for new subsection 10B consideration was given to whether there was less restrictive means available to assist in establishing whether a licensee should remain involved in race bookmaking activities. The gambling industry is highly regulated and unforeseen issues can arise which can affect the

public interest, consumer protection and infiltration of the industry by criminal aspects of society.

A number of provisions have been inserted to limit the human rights impact, including appropriately targeted criteria for assessment that is inherently connected to the duties of race bookmakers and the likely ability to pay bets, albeit that consideration of this ability must be reasonably based. The limitations imposed on the types of criminal offences and the timeframes for considering offences based on when the offences were committed, are sufficiently restrictive and have the necessary additional oversight of an independent arbiter, as reviewable decisions by ACAT.

Finally, providing the Commission with the ability to still renew a licence if the industry will not be adversely affected, and it is in the public interest to do so, maximises the Commission's ability to provide regulatory fairness to licensees who may otherwise be excluded from their continuing involvement in the racing industry. While there is some discretion attached to the decision making on the assessing the criteria for the tests, it is considered that there was no other reasonable alternative to meet the competing needs of the Commission's statutory obligations under section 7 of the Control Act and the ability to provide fairness to the applicant in a highly regulated environment.

For the reasons indicated above it is considered that any human right limitations arising from new section 10A and 10B are reasonable and proportionate (also discussed above in *Human Rights Implications*).

Clause 40 Application for race bookmaker's agent licence
Section 12(3)

Clause 40 amends existing subsection 12(3) to provide clarity that an application submitted by the race bookmaker for a race bookmaker's agent licence must include evidence that the person to become the agent (the nominated person) consents to:

a. being nominated as the person in the application; and
b. a police officer checking their criminal record and reporting the results of the check to the Commission.

This provision is an existing requirement for all nominated persons for a race bookmaker's agent licence under the RSB Act to consent to an application being made. This requirement is to minimise those occurrences of identity fraud and ensure that an application is unable to be made on behalf of a person without the nominated person's knowledge. For the definition of what constitutes a nominated person see section 93 of the RSB Act. The requirement for consent to a criminal record check is also an existing requirement and is consistent with the requirement for all persons licensed to conduct gambling activities within the Territory. This section should be read in conjunction with new sections 13, 16A and 16B of the RSB Act.

Clause 40 may engage section 12 of the *Human Rights Act 2004* – the right to privacy and reputation, discussed above in the section titled, *Human Rights Implications*. The provision enables the Commission to seek a nominated person's criminal history to establish whether

the person is an eligible person to hold a race bookmaker's agent licence. While the remodelling of the licensing framework has occurred to allow assessment of applicants to be more flexible, gambling activities and licensing of those people involved in the industry is highly regulated to maximise consumer protection, and minimise criminal activity and unethical behaviour, which are all statutory obligations imposed on the Commission under section 7 of the Control Act. The existing requirement to require consent to a police check being conducted is considered reasonable and proportionate to addressing those risks and to maintain the integrity of the industry.

The behaviour of a person is fundamental to protecting the public and minimising criminal activities. Even though this provision may engage section 12 of the *Human Rights Act 2004*, due to the nature of the industry there is no other alternative means to achieve the required safeguards. However, as noted below in the explanation for clause 42, safeguards and limitations have been placed around the use of information from a criminal record that was not previously available.

Clause 41 Section 12(4)

Clause 41 provides a technical amendment to existing subsection 12(4) to renumber the applicable subsection that applies to the authorisation for a police report and is consequential to clause 40 of the Amendment Bill.

Clause 42 Section 13

This clause provides the fundamental regulatory framework for the Commission to assess whether a person is suitable to hold a race bookmaker's agent licence. It is appropriate that the commission exercise the powers for issue or refusal of the licence as the independent regulator, established by and granted powers by the ACT Legislative Assembly, and bound by statutory limits, including the provisions of the Control Act.

In addition, the power granted to the Commission is not unfettered as the Commission is bound to consider those matters and is specifically constrained by new subsection 13(2) on the matters that may be considered. This is consistent with the reframing of suitability requirements, previously provided at existing subsection 92(1) of the RSB Act, to remove subjective tests associated with "reputation for sound business conduct" and "reputation for sound character". Further consideration has also been given to the relationship between the race bookmaker and the agent and this has resulted in some suitability tests being removed for an agent.

New paragraph 13(2)(a) allows consideration to be given where a person has been convicted, or found guilty, of an offence involving fraud or dishonesty, or an offence against a gaming law. Consideration of the offence for whether the person is an eligible person must only take place if the conviction or finding of guilt occurred within the last five years. Commencement of the five years should be considered as relevant from the date of application. These types of offences have been included due to the inherent connectivity between the licence and the integrity of the gambling industry or infiltration of criminal elements in the industry.

The reframing of new paragraphs 13(2)(b) and 7(2)(c) now also limits the convictions and findings of guilt within the last five years where an offence was punishable by imprisonment for at least one year. The existing section 92(1) of the RSB Act did not provide a limitation on which offences could be considered by not imposing a period for applicable offences, nor provide a guide that a penalty of imprisonment must be for at least one year. The revised clauses have been applied to minimise those circumstances where a person may be refused a licence for a minor offence. It is the policy intention that a person should not be automatically prohibited and penalised from undertaking new careers at different stages when the offences committed by the applicant may have occurred in very different circumstances, such as when the person was relatively young.

The possession of a criminal history under these provisions does not necessarily make the person an ineligible person. Consideration by the Commission of the actual offences that a person may have been convicted or found guilty of does not occur in a vacuum. Offences will only be relevant to the extent where there is an inherent connectivity between the criminal history of the person and the regulation of the gambling industry. Decisions by the Commission must be justifiable and not harsh or unreasonable and specific safeguards for internal review of decisions and under the *ACT Civil and Administrative Tribunal Act 2008* to maximise those principles have been applied.

New paragraph 13(2)(d) reflects paragraph 92(1)(e) of the RSB Act and re-applies the requirement that a nominated person for a bookmaker's agent licence must not owe an amount payable to the Commission or the Territory under a ACT gaming law. This requirement is reasonable and proportionate given the risks associated with the amount of money that may be held by agents on behalf licensees. Further, where an agent owes money to the Territory under a gaming law it is probable that it is associated with a monetary penalty that has been applied against the agent for a disciplinary action under Part 8 of the RSB Act or another Territory gaming law, especially given how the gaming suite of legislation is structured.

However, there is no requirement on the nominated person to undergo tests associated with the likely ability to pay bets as the financing of bets is the responsibility of the licensee and therefore those existing requirements have not been reapplied to a nominated person.

New subsections 13(3) to 13(5) are the existing subsections 13(2) to 13(5) of the RSB Act and provide the procedural fairness mechanisms to ensure that the exercise of the Commission's power under section 13 of the RSB Act must be reasonable and must be appropriately based on evidence justifying such action. New subsection 13(3) provides that the Commission must notify in writing the race bookmaker about each matter that the Commission is not satisfied about under new subsection 13(2) and advise the race bookmaker of their rights. It should be noted that it is the race bookmaker that makes an application under Division 2.3, however, under Part 10 of the Act the Commission must give notice to any person that may be affected by the decision and this would include the nominated person. New subsection 13(4) provides that written or oral representations (including by an authorised representative) may be made

to the Commission about the matters raised by the Commission; and the timeframe for those representations or any longer period as provided by the Commission is established.

New subsection 13(5) further provides that the Commission must take into account any representations made by the race bookmaker and any other relevant material information available to the Commission – noting the limitations above on the information that may be considered by the Commission. The Commission must either issue the race bookmaker's agent licence if the Commission is satisfied on the matters raised or refuse to issue the licence to the nominated person. A refusal to issue the licence is a decision that can be reviewed internally and by ACAT. Subsection 13(5) must be read in conjunction with *Part 10 - Notification and review of decisions* under the RSB Act.

New subsection 13(6) of the Amendment Bill introduces a mechanism to allow the Commission to issue a licence notwithstanding that the person nominated in the application may not meet the suitability requirements under section 13. New subsection 13(6) establishes that the Commission may still issue the licence if is satisfied that the racing industry would not be adversely affected and it is otherwise in the public interest. This provision provides the Commission with the discretion to consider all the circumstances and what is reasonable, in light of the public interest, in deciding whether a nominated person should be issued a licence. A decision to deem an individual as still not being an eligible person, which subsequently results in the Commission refusing to issue the licence, would still be a reviewable decision as the decision is the refusal to issue a licence. The insertion of this provision is intended to address those instances where a decision to refuse a licence would, in all the circumstances, otherwise be harsh or unreasonable.

In developing new section 13, consideration was given to whether there was less restrictive means available to assist in establishing whether a person was eligible to be involved in race bookmaking activities. The gambling industry is highly regulated and unforeseen issues can arise which can affect the public interest, consumer protection and infiltration of the industry by criminal aspects of society. However, it was considered that less stringent requirements could be adopted for race bookmaking licensing arrangements, especially for agents, and a number of reforms have been adopted.

A number of mechanisms have been inserted to limit the human rights impact, including more appropriately targeted criteria for assessment that is inherently connected to the duties of a race bookmaker's agent. The limitations imposed on the types of criminal offences and the timeframes for considering offences based on when the offences were committed, are sufficiently restrictive and have the necessary additional oversight of an internal and independent arbiter, as reviewable decisions by ACAT.

Finally, providing the Commission with the ability to still issue a licence if the industry will not be adversely affected, and it is in the public interest to do so, maximises the Commission's ability to provide regulatory fairness to persons that would otherwise be excluded from involvement in the racing industry. While there is some discretion attached to the decision making on the assessing the criteria for the tests, it is considered that there was no other

reasonable alternative to meet the competing needs of the Commission's statutory obligations under section 7 of the Control Act and the ability to provide fairness to the applicant in a highly regulated environment.

For the reasons indicated above it is considered that any human right limitations arising from new section 13 are reasonable and proportionate (also discussed above in *Human Rights Implications*).

Clause 43 New sections 16A and 16B

This clause inserts the new framework to provide for the renewal of race bookmaker's agent licences as part of the red tape reforms for the gambling industry. New subsection 16A(2) provides that a race bookmaker may apply to the Commission to renew the agent's race bookmaker's agent licence. Licences under this provision may be issued for a period of not longer than 3 years. The term of the licence is consistent with other licensing arrangements across the suite of gambling legislation.

New subsection 16A(3) provides the requirements for what must be included in the renewal application and what must be received by the Commission at least 30 days before the licence expires. The Commission may also extend the time for making the application under new subsection 16A(4). This provision has been inserted to minimise those consequences where the race bookmaker may not be able to submit an earlier application for the agent due to circumstances beyond their control. New subsection 16A(5) also provides further protection to an agent to enable them to continue to conduct race bookmaking activities by providing that an agent's licence will remain in force until the application for renewal has been decided.

New section 16A may engage section 12 of the *Human Rights Act 2004* – the right to privacy and reputation, discussed above in the section titled, *Human Rights Implications*. The provision enables the Commission to seek an agent's criminal history to establish whether the agent's licence may be renewed. There is also an application process which may contain personal information. While the remodelling of the licensing framework has occurred to allow assessment of licensees to be more flexible, gambling activities and licensing of those people involved in the industry is highly regulated to maximise consumer protection, and minimise criminal activity and unethical behaviour, which are all statutory obligations imposed on the Commission under section 7 of the Control Act. The requirement to require consent to a police check being conducted is considered reasonable and proportionate to addressing those risks and to maintain the integrity of the industry.

The behaviour of an agent is fundamental to protecting the public and minimising criminal activities. Even though this provision may engage section 12 of the *Human Rights Act 2004*, due to the nature of the industry there is no other alternative means to achieve the required safeguards. However, as noted below in the explanation for new section 16B specific safeguards and limitations have been placed around the use of information from an application or a criminal record.

New section 16B provides the framework for the Commission to assess whether an agent is suitable to have their race bookmaker's agent licence renewed. It is appropriate that the commission exercise the powers for renewal or refusal of a licence as the independent regulator, established by and granted powers by the ACT Legislative Assembly, and bound by statutory limits, including the provisions of the Control Act.

In addition, the power granted to the Commission is not unfettered as the Commission is bound to consider those matters and is specifically constrained by new subsection 16B(3) on the matters that may be considered, noting that new subsection 16B(2) places a positive obligation on the Commission not to consider the application unless a police report is received.

New paragraph 16B(3)(a) allows consideration to be given where an agent has been convicted, or found guilty, of an offence involving fraud or dishonesty, or an offence against a gaming law. Consideration of the offence for whether the licensee is an eligible person must only take place if the conviction or finding of guilt occurred within the last five years. These types of offences have been included due to continuing relevance and the inherent connectivity between the licence and the integrity of the gambling industry.

New paragraphs 16B(3)(a) to 16B(3)(c) also limit the convictions and finding of guilt within the last five years where an offence was punishable by imprisonment for at least one year and is consistent with the reforms applied at new section 13. The clauses have been inserted to minimise those circumstances where a licence may be refused for an agent for a relatively minor offence. It is the policy intention that an agent should not be automatically prohibited and penalised from continuing to undertake their careers.

The possession of a criminal history under these provisions does not necessarily make the agent an ineligible person. Consideration by the Commission of the actual offences that a licensee may have been convicted or found guilty of does not occur in a vacuum. Offences will only be relevant to the extent where there is an inherent connectivity between the criminal history of the agent and the regulation of the racing industry. Decisions by the Commission must be justifiable and not harsh or unreasonable and specific safeguards for internal review of decisions and under the *ACT Civil and Administrative Tribunal Act 2008* to maximise those principles have been applied.

New paragraph 16B(3)(d) re-applies the requirement that licensees must not owe an amount payable to the Commission or the Territory under a ACT gaming law. For an agent it is probable that it is associated with a monetary penalty that has been applied against the agent for a disciplinary action under Part 8 of the RSB Act or as part of the disciplinary process with another Territory gaming law, especially given the way the gaming suite of legislation is structured. The requirement is reasonable and proportionate given the risks associated with the gambling industry.

New subsections 16B(4) to 16B(6) provide the procedural fairness mechanisms to ensure that the exercise of the Commission's power under section 16B of the RSB Act must be reasonable

and must be appropriately based on evidence justifying such action. New subsection 16B(4) provides that the Commission must notify in writing the race bookmaker about each matter that the Commission is not satisfied about under new subsection 16B(3) and advise the race bookmaker of their rights. It should be noted that it is the race bookmaker that makes an application under Division 2.3, however, under Part 10 of the Act the Commission must give notice to any person that may be affected by the decision and this would include the agent. New subsection 16B(5) provides that written or oral representations (including by an authorised representative) may be made to the Commission about the matters raised by the Commission; and the timeframe for those representations or any longer period as provided by the Commission is established.

New subsection 16B(6) further provides that the Commission must take into account any representations made by the race bookmaker and any other relevant material information available to the Commission – noting the limitations above on the information that may be considered by the Commission. The Commission must either issue the race bookmaker's agent licence if the Commission is satisfied on the matters raised or refuse to issue the licence to the agent. A refusal to issue the licence is a decision that can be reviewed internally and by ACAT. Subsection 16B(6) must be read in conjunction with *Part 10 - Notification and review of decisions* under the RSB Act.

New subsection 16B(7) of the Amendment Bill continues the mechanism introduced under subsection 13(6) to allow the Commission to renew a licence notwithstanding that the agent may not meet the suitability requirements under subsection 16B(3). New subsection 16B(7) provides that the Commission may still renew the licence if is satisfied that the racing industry would not be would not be adversely affected and it is otherwise in the public interest. This provision provides the Commission with the discretion to consider all the circumstances and what is reasonable, in light of the public interest, in deciding whether an agent should remain licensed. A decision to deem a licensee as still not being an eligible person, which subsequently results in the Commission refusing to renew the licence, would still be a reviewable decision as the decision is the refusal to renew a licence. The insertion of this provision is intended to address those instances where a decision to refuse to renew a licence to an agent would, in all the circumstances, otherwise be harsh or unreasonable.

As noted above in new section 13, when developing the legislation for new sections 16A and 16B consideration was given to whether there was less restrictive means available to assist in establishing whether an agent should remain involved in race bookmaking activities. The gambling industry is highly regulated and unforeseen issues can arise which can affect the public interest, consumer protection and infiltration of the industry by criminal aspects of society.

A number of provisions have been inserted to limit the human rights impact, including appropriately targeted criteria for assessment that is inherently connected to the duties of race bookmaker's agents. The limitations imposed on the types of criminal offences and the timeframes for considering offences based on when the offences were committed, are

sufficiently restrictive and have the necessary additional oversight of an internal reviewer and an independent arbiter, as reviewable decisions by ACAT.

Finally, providing the Commission with the ability to still renew a licence if the industry will not be adversely affected, and it is in the public interest to do so, maximises the Commission's ability to provide regulatory fairness to agents that may otherwise be excluded from their continuing involvement in the racing industry. While there is some discretion attached to the decision making on the assessing the criteria for the tests, it is considered that there was no other reasonable alternative to meet the competing needs of the Commission's statutory obligations under section 7 of the Control Act and the ability to provide fairness to the applicant in a highly regulated environment.

For the reasons indicated above it is considered that any human right limitations arising from new section 16A and 16B are reasonable and proportionate (also discussed above in *Human Rights Implications*).

Clause 44 New section 23A

Clause 44 is a consequential amendment to the separation of race bookmaking licences and race bookmaker's agent licences from the requirements imposed on sports bookmaking. The prohibition of issue of licenses for all bookmakers was previously located at section 43 of the RSB Act which has now been omitted and the requirements for sports bookmaking have been relocated to new section 23A so that the provision is co-located with other requirements for sports bookmaking. There has been no change in the drafting of this provision except to ensure that race bookmaking is not captured under this provision.

The amendments and reforms to the RSB Act under the Amendment Bill do not include sports bookmaking due to the high risks associated with this type of bookmaking. A sports bookmaking licensee (and associated agents) is analogous to the casino and totalisator licensee and similar strict regulatory safeguards must be kept in place. A key purpose of the regulation of sports bookmaking is to ensure that the general public is protected from any issues arising with the integrity of the industry, to minimise harm from problem gambling and to prevent infiltration of the industry by criminal elements. These are all statutory obligations imposed on the Commission under section 7 of the Control Act.

The requirement that applicants must not owe an amount payable to the Commission or the Territory under an ACT law has been applied since the Act commenced in 2001. This requirement is reasonable and proportionate given the risks associated with the ability of licensees to pay bets when they fall due given the high volume of monies that can be transacted. Consideration also needs to be given if the monetary amount is associated with a penalty for a breach of a gaming law. The requirement for being able to pay debts, and accordingly pay bets, is a fundamental principle associated with bookmaking activities and accords with the Commission's statutory obligations to exercise its functions in the best way to promote the public interest for consumer protection under subsection 7(a) of the Control Act.

If the Commission refuses to issue the sports bookmaking licence under this provision a refusal to issue the licence is a decision that can be reviewed internally and by ACAT. New section 23A must be read in conjunction with *Part 10 - Notification and review of decisions* under the RSB Act.

Clause 45 Issue or refusal of sports bookmaking licence
Section 26(8)

This clause is consequential to clause 44 and provides for the new numbering of existing subsection 26(8) of the RSB Act.

Clause 46 Issue or refusal of sports bookmaker's agent licence
Section 35(6)

Clause 46 is consequential to clause 44 and substitutes a reference to section 43 to new section 23A for existing subsection 35(6) of the RSB Act.

Clause 47 Commission's powers in considering applications
New section 41(1A)

Clause 47 is consequential to the introduction of the renewal process for race bookmaking licences and inserts new subsection 41(1A) to apply to applications for licences and renewals of licences.

Clause 48 Section 41(1)

Clause 48 is a consequential amendment as a result of the insertion of clause 47 and makes it clear that the section applies to deciding whether to issue or renew the licence.

Clause 49 Section 41(3), definition of *relevant person*, new paragraphs (c) and (d)

This clause provides for consequential amendments as a result of the introduction of a renewal process for race bookmaking licences.

Clause 50 Prohibition of issue of licences in certain cases
Section 43

The removal of existing section 43 is consequential to the race bookmaking licensing arrangements now being contained in new subparagraphs 7(2)(a)(iv), 10B(3)(a)(iv) and paragraphs 13(2)(d) and 16B(3)(d) and the relocation of sports bookmaking requirements to new section 23A.

Clause 51 Mandatory cancellation of licence
Section 68(2)

This clause provides a technical amendment to existing section 68(2) as a consequence of race bookmaking suitability requirements being removed from subsection 92(1) and relocated to Part 2 of the RSB Act. Revised subsections 68(2) and 68(2A) provide that the assessment criteria to renew a licence under new 10B(3) and 16B(3) are to be applied. Accordingly, the arguments that support the criteria are as discussed in detail at clause 39 and clause 43 to this Explanatory Statement.

While the amendments to this Part are consequential and have applied since the commencement of the Act, it is considered important to indicate that the provisions still apply

to the policy intent. Subsection 68 can only apply if an inquiry has been held by the Commission under Part 8 and there are reasonable grounds that at least one criterion applies to the licensee (see subsection 68(1)). It is appropriate that the commission exercise the powers under Part 8 as the independent regulator, established by and granted powers by the ACT Legislative Assembly, and bound by statutory limits, including the provisions of the Control Act. In addition, the power granted to the Commission is not unfettered as the Commission is constrained to consider those matters which are specifically outlined under the RSB Act.

While the section is titled '*Mandatory cancellation of licence*' in the context of Part 8 the provision is not mandatory. The Commission may instead of cancelling the licence take other disciplinary action if, in the circumstances, the public interest does not require cancellation of the licence; and cancellation of the licence would be an excessively severe penalty. These provisions must also be read in conjunction with *Part 10 - Notification and review of decisions* under the RSB Act.

However, the reframing of licensing arrangements does not necessarily correlate to a lessening of the requirements for disciplinary action to be taken when race bookmaking licensees and their agents would no longer be eligible to be licensed or if they breach the RSB Act. Consideration was given to whether there was less restrictive means available however, the overarching fact remains that the gambling industry is highly regulated and unforeseen issues can arise which can affect the public interest, consumer protection and infiltration of the industry by criminal aspects of society. Therefore strong mechanisms are required when such matters occur. Although it was considered that less stringent requirements could be adopted for race bookmaking licensing arrangements and a number of reforms have been adopted, this could not be applied to the taking of disciplinary action without compromising the Commission's statutory obligations under section 7 of the Control Act.

It is considered that the provisions contained in Part 8 applying to race bookmakers and their agents are reasonable and proportionate and provide sufficient procedural fairness to licensees and agents in line with the reforms being adopted for licensing.

Clause 52 Section 68(3)

The amendments at clause 52 are consequential to the amendments made at clause 51 and insert a reference to new subsection numbers within subsection 68(3) of the RSB Act.

Clause 53 Security guarantee – determination of minimum amount
Section 90(1) note

Clause 54 Amendment of security guarantee
Section 91(1)(b) note

These clauses amend the notes for existing section 90(1) and paragraph 91(1)(b) to include the new numbering of sections with requirements for a security guarantee.

Clause 55 Meaning of *suitability requirements* and *security guarantee*
Section 92(1)(h)

This clause is consequential to the relocation of security guarantee requirements for a race bookmaking licence to new section 7 of the RSB Act.

Clause 56 Section 92(1)(i)

This clause is consequential to the relocation of security guarantee requirements for a race bookmaking licence to new section 7 of the RSB Act.

Clause 57 Section 92(2)(a)

This clause is consequential to the relocation of suitability requirements for a race bookmaking licence to Part 2 of the RSB Act.

Clause 58 Section 92(2)(b)

This clause is consequential to the relocation of suitability requirements for a race bookmaking licence to Part 2 of the RSB Act.

Clause 59 New section 92(2)(ba)

This clause is consequential to the relocation of suitability requirements for a race bookmaking licence to Part 2 of the RSB Act.

Clause 60 Section 92(2)(c)

Clause 61 Section 92(2)(c)

Clause 60 and clause 61 are consequential to the relocation of suitability requirements for a race bookmaking licence to Part 2 of the RSB Act.

Clause 62 Section 92(3)

This clause is consequential to the relocation of the meaning of a security guarantee for a race bookmaking licence at existing subsection 92(3) to new section 4B of the RSB Act.

Clause 63 Internally reviewable decisions
Schedule 1, items 1 to 6

Schedule 1 lists the decisions that are reviewable in accordance with Part 10 of the *Race and Sports Bookmaking Act 2001*. Each reviewable decision is referenced in the relevant clause and the changes are consequential to introducing a revised licence application process and a licensing renewal mechanism in the Amendment Bill.

Clause 64 Dictionary, definition of *issue*

This clause is consequential to the new racing bookmaking renewal framework being inserted and is no longer necessary to be included in the RSB Act.

Clause 65 Dictionary, definition of *security guarantee*

This clause is consequential to the relocation of the meaning of a security guarantee for a race bookmaking licence at existing subsection 92(3) to new section 4B of the RSB Act.

Part 5 Race and Sports Bookmaking Regulation 2001

Clause 66 Disclosure of information by commission – Act, s46(3) Section 5(d) and (f)

Clause 66 is a technical amendment to amend the racing entities that the Commission must provide information to when a licence is issued, suspended or cancelled, or when a suspension is ended. Amended subsection 5(d) of the *Race and Sports Bookmaking Regulation 2001* provides that the new name for the Greyhound Racing Association (NSW) is Greyhound Racing New South Wales and subsection 5(f) replaces the Thoroughbred Racing Board (NSW) with Racing NSW. There is no name change for Harness Racing New South Wales under subsection 5(e) of the *Race and Sports Bookmaking Regulation 2001*.

Clause 67 Corresponding laws – Act s92(1)(d) Section 7(i)

This clause provides a technical amendment to subsection 7(i) of the *Race and Sports Bookmaking Regulation 2001* by naming the Tasmanian corresponding law as the *Racing Regulation Act 2004* (Tas).

Part 6 Racing Act 1999

Clause 68 Rules of thoroughbred racing Section 19(1)

This clause provides a technical amendment to reflect the new corporate structure arrangements for the Australian Racing Board. The functions and assets of the Australian Racing Board, Racing Information Services Australia and the Australian Stud Book have merged into one entity known as Racing Australia Limited. The amendment now provides that Racing Australia Limited is the entity for the Australian Rules of Racing.

Part 7 Racing (Race Field Information) Regulation 2010

Clause 69 Dictionary, definition of *defined entity*, paragraph (c)

This clause provides a technical amendment and replaces the Australian Racing Board Ltd with Racing Australia Limited as a defined entity.

Schedule 1 Gaming Machine Act 2004- Other amendments

The amendments below apply to the uncommenced provisions of the *Gaming Machine (Reform) Amendment Act 2015* from commencement of those provisions in the Gaming Act.

[1.1] Section 10C(7), note 2

This clause amends an incorrect reference in Note 2 for section 127T(1)(i).

[1.2] Section 37H(2)(d)

This clause is consequential to the amendment at clause 7 of the Amendment Bill.

[1.3] Section 104, heading

This clause is consequential to the amendment at clause 13 of the Amendment Bill.

[1.4] Section 104(2)(b) and(c)

This clause is consequential to the amendment at clause 14 of the Amendment Bill.

[1.5] Section 127S

This clause is consequential to the amendment at clause 18 of the Amendment Bill.

[1.6] Section 127T(1)(j)

This clause is consequential to the amendment at clause 19 of the Amendment Bill.

[1.7] Section 127ZB(2)(b) and (c), except notes

This clause is consequential to the amendment at clause 22 of the Amendment Bill.