

**NORTHERN TERRITORY OF AUSTRALIA**

**TOTALISATOR LICENSING AND REGULATION ACT**

As in force at 7 June 2002

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 7 June 2002

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## TOTALISATOR LICENSING AND REGULATION ACT

**An Act to provide for the licensing and regulation of totalisators and wagering by means of a totalisator system in the Territory and for related purposes**

### **Part 1 Preliminary**

#### **1 Short title**

This Act may be cited as the *Totalisator Licensing and Regulation Act*.

#### **2 Commencement**

This Act comes into operation on the commencement of the *Sale of NT TAB Act 2000*.

#### **3 Interpretation**

(1) In this Act, unless the contrary intention appears:

**agent** means the person with whom a licensee enters into an agreement referred to in section 43 to establish or carry on business as an agency for the conduct of totalisator wagering.

**agency** means the conduct of totalisator wagering under a licensee's licence by the licensee's agent for and on behalf of the licensee on premises occupied by the agent.

**associate**, in relation to a person, means:

- (a) the person's spouse;
- (b) a parent or remoter lineal ancestor, son, daughter or remoter issue, brother or sister of the person;
- (c) a partner or trustee of the person;
- (d) a body corporate of which the person is a director, secretary or executive or other officer;

- (e) if the person is a body corporate – a director, secretary or executive or other officer of the body corporate;
- (f) a person who, in the previous year, has provided to the first-mentioned person advice for fee or reward in relation to wagering or the operation of a totalisator or conduct of totalisator wagering;
- (g) an employee or employer of the person;
- (h) an officer or employee of a body corporate of which the person is an officer or employee;
- (j) an employee of a natural person of whom the person is an employee;
- (k) a body corporate whose directors or executive officers are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the person or, if the person is a body corporate, of the directors or executive officers of that body corporate;
- (m) a body corporate in accordance with the directions, instructions or wishes of which, or of the directors or executive officers of which, the person is accustomed or under an obligation, whether formal or informal, to act;
- (n) a body corporate in which the person holds a controlling interest;
- (p) if the person is a body corporate – a person who holds a controlling interest in the body corporate; or
- (q) a person who is, because of this definition, an associate of any other person who is an associate of the person (including a person who is an associate of the person by another application of this definition).

**authority** means the authority referred to in section 5 that administers this Act.

**betting account** means an account with a licensee in the name of a person who makes bets with the licensee against which the amount of a bet made by the person with the licensee may be debited and into which a dividend, refund or other payment payable to the person by the licensee may be credited.

**Chairperson** means the Chairperson of the Northern Territory Licensing Commission as defined in section 3 of the *Northern Territory Licensing Commission Act*.



**club** means a club or a principal club as defined in section 4(1) of the *Racing and Betting Act*.

**commission** means commission deducted in accordance with the Rules.

**Deputy Director** means a Deputy Director of Licensing appointed under section 24 of the *Northern Territory Licensing Commission Act*.

**Director** means:

- (a) the Director of Licensing appointed under section 22(1) of the *Northern Territory Licensing Commission Act*; or
- (b) the person appointed to act as the Director under section 22(2) of that Act while acting as the Director.

**event, sport or activity** means an event, sport or activity determined under section 12 to be an event, sport or activity on which wagering by means of a totalisator may be conducted.

**hearing** means a hearing conducted in accordance with Part 8.

**inspector** means a totalisator inspector appointed by or under section 50.

**licence** means a totalisator licence to establish a totalisator, operate a totalisator or conduct totalisator wagering granted or renewed under section 20, and includes a licence that is varied under this Act.

**licence document** means the document that specifies or documents that jointly specify the grant of a licence, the terms and conditions of the licence and any variation of the licence.

**licensee** means a person who holds a licence or a temporary licence.

**member** means a member of the Northern Territory Licensing Commission appointed under section 6 of the *Northern Territory Licensing Commission Act* (including the Chairperson).

**operator** means a person appointed by a licensee under section 42 to manage the operations of the licensee conducted on a premises of a licensee.

**premises** means a building or part of a building, occupied by a licensee or an agent, where:

- (a) the licensee establishes or operates a totalisator or conducts totalisator wagering; or
- (b) the agent conducts totalisator wagering under a licensee's licence for and on behalf of the licensee.

**race** means a horse race, dog race, pony race or trotting race, and includes all races of a series of races in relation to which a bet is made with one stake on the results of 2 or more of the races.

**Rules** means rules made under section 46.

**temporary licence** means a licence granted under section 79(1).

**totalisator** means a scheme of pari-mutuel wagering, whether conducted by means of an instrument or contrivance known as a totalisator or otherwise.

**totalisator wagering** means the business of wagering by means of a totalisator.

**wagering** means pari-mutuel betting on a race or an event, sport or activity.

**wagering tax** means the tax payable each month by a licensee under section 34.

- (2) A reference in this Act to a person employed by a licensee or an agent includes a reference to a person whose services are provided to the licensee or agent under a contract with the person or another person.
- (3) Unless the contrary intention appears, a reference in this Act to the licensee includes a reference to an agent and an operator of the licensee.
- (4) An obligation or liability of a licensee under this Act is to be taken to include an obligation or liability arising or imposed in respect of the actions of the licensee or an agent or operator of the licensee.

#### **4 Act binds Crown**

This Act binds the Crown not only in right of the Northern Territory but, to the extent that the legislative power of the Legislative Assembly permits, the Crown in all its other capacities.

## **Part 2 Authority**

### **Division 1 Establishment, powers and functions of authority**

#### **5 Authority**

- (1) There is an authority that administers this Act.
- (2) The Northern Territory Licensing Commission established by section 4 of the *Northern Territory Licensing Commission Act* is the authority.

#### **6 Functions of authority**

The functions of the authority are:

- (a) to grant and issue licences to establish or operate a totalisator or conduct totalisator wagering for the purposes of wagering on races and events, sports or activities held in or outside the Territory;
- (b) to regulate the operation of totalisators and the conduct of totalisator wagering in the Territory;
- (c) to supervise the conduct of licensees in operating totalisator wagering facilities in the Territory;
- (d) determine the events, sports or activities on which wagering by means of a totalisator may be conducted;
- (e) to promote responsible totalisator wagering in the Territory; and
- (f) to research matters and call for and receive submissions from interested persons regarding, and make recommendations to the Minister on, the operation of totalisators and conduct of totalisator wagering, including preferred procedures and practices for the operation of totalisators and conduct of totalisator wagering in the Territory and the legislation applicable to totalisators and totalisator wagering.

#### **7 Operation of totalisator by authority**

- (1) Subject to subsection (2), the authority may not operate a totalisator in the Territory.
- (2) If, for any reason, there is no licensee capable of conducting totalisator wagering in the Territory, the authority may take the actions it considers necessary to ensure that totalisator wagering continues to be conducted in the Territory until a licence or a

temporary licence is granted.

- (3) The following are examples of circumstances when the authority might take action under subsection (2):
- (a) no application has been made for a licence;
  - (b) no licence has been granted;
  - (c) a licensee's licence is cancelled or suspended and a temporary licence has not been granted in respect of the licensee's business under the licence;
  - (d) the bankruptcy of a licensee or the application to take the relief of a law for the relief of bankrupt of insolvent debtors or making of an assignment of a licensee's property, interest or remuneration for the benefit of the licensee's creditors;
  - (e) in the case of a licensee that is a company – the licensee is in liquidation, being wound up or is deregistered;
  - (f) a licensee dies or is ill or otherwise mentally or physically incapacitated.
- (4) If, in exercising its powers under subsection (2), the authority decides to operate a totalisator or conduct totalisator wagering itself, to the extent necessary, this Act applies in respect of the operation of the totalisator or the conduct of totalisator wagering by the authority as if the authority were a licensee.

## **Division 2            Miscellaneous**

### **8            Delegation**

In exercising its power to delegate under section 20 of the *Northern Territory Licensing Commission Act*, the authority may not delegate its power under this Act to:

- (a) grant a licence;
- (b) make Rules; or
- (c) conduct a hearing.

### **9            Proceedings of authority to be open to public**

- (1) The proceedings of the authority are to be open to the public unless the authority determines that a proceeding or part of a proceeding is to be closed to the public.

- (2) Grounds for making a determination to close a proceeding or part of a proceeding to the public include that a matter to be considered by or evidence that will be given or used before the authority is commercially sensitive or should remain confidential for another reason.

## **10 Disclosure of interest**

- (1) On:
- (a) a person becoming a member; or
  - (b) in the case of a person who is a member of the Northern Territory Licensing Commission on the commencement of this Act – on that commencement,
- the person must disclose to the Minister:
- (c) the name and description of any company, association or other body of which he or she is a member or an officer or by whom he or she is employed;
  - (d) the name and a description of any partnership of which he or she is a partner or by whom he or she is employed;
  - (e) any other business association or financial interest he or she has in relation to a company or other body or a person that is likely to give rise to a conflict with his or her duties as member; and
  - (f) any other prescribed information.
- (2) The disclosure is to be made in the manner and form approved by the Minister.
- (3) If there is a change to the information disclosed by a member or a member acquires new interests likely to give rise to a conflict with his or her duties as member, the member must, not later than 28 days after the change occurs or the interest is acquired, vary his or her disclosure accordingly in the manner and form approved by the Minister.
- (4) A disclosure (as varied) remains effective during the member's term of office and any successive term of office held by the member.
- (5) The Minister must keep a record of the particulars of all disclosures and variations of disclosures made under this section.
- (6) Nothing in this section limits or otherwise affects the operation of section 19 of the *Northern Territory Licensing Commission Act*.

## **11 Review of decisions of authority**

- (1) A decision of the authority made under this Act, other than a decision to grant or refuse to grant a licence or the determination of a hearing, is capable of being reviewed under Part 4 of the *Northern Territory Licensing Commission Act*.
- (2) A review under Part 4 of the *Northern Territory Licensing Commission Act* does not affect the application of Parts 7 (other than Division 5 of that Part) and 8 in relation to the matter the subject of the review, but those Parts do not apply during the conduct of the review.

## **12 Determination of events, sports and activities**

- (1) The authority must, by notice in the *Gazette*, determine the events, sports and activities on which wagering by means of a totalisator may be conducted.
- (2) In making a determination under subsection (1), the authority may:
  - (a) specify an event, sport or activity or a class of events, sports or activities on which wagering may be conducted;
  - (b) specify an event, sport or activity or a class of events, sports or activities on which wagering is not to be conducted;
  - (c) specify circumstances, whether generally or in a particular case, in which wagering may be conducted on an event, sport or activity or a class of events, sports or activities; or
  - (d) specify circumstances, whether generally or in a particular case, in which wagering is not to be conducted on an event, sport or activity or a class of events, sports or activities.
- (3) The authority may, by notice in the *Gazette*:
  - (a) exempt a licensee or class of licensees from compliance with a determination or part of a determination made under subsection (1); or
  - (b) provide that a determination or part of a determination made under subsection (1) does not apply to an event, sport or activity or a class of events, sports or activities.
- (4) An exemption under subsection (3) may be subject to conditions.

## **Part 3            Licensing**

### **Division 1        Application and grant of licence**

#### **13                General principles relating to grant of licence**

- (1) The authority may grant a totalisator licence to authorise any one or more of the following activities:
  - (a) the establishment of a totalisator in the Territory;
  - (b) the operation of a totalisator in the Territory;
  - (c) the conduct of totalisator wagering in the Territory on a race or an event, sport or activity occurring in or outside the Territory;
  - (d) the provision of facilities for wagering by persons outside the Territory by means of a totalisator operating in the Territory.
- (2) A person who is granted a licence may be a person who operates a totalisator or conducts totalisator wagering outside the Territory.
- (3) A person may be granted a licence to conduct totalisator wagering in the Territory on a totalisator that is outside the Territory.
- (4) A person may hold more than one licence, including a temporary licence.

#### **14                Application for licence**

- (1) A person may apply to the authority for a licence.
- (2) An application under subsection (1) is to be in a form approved by the authority and accompanied by:
  - (a) the prescribed information; and
  - (b) the prescribed fee.

#### **15                Additional information etc.**

- (1) The authority may require an applicant to supply:
  - (a) additional information that will assist it to determine the application; and
  - (b) the written consents and signed authorities necessary for the authority to investigate the suitability of the applicant under section 17.

- (2) If, at any time before an application for a licence is determined, there is a change in the information that accompanied the application or is supplied by the applicant under subsection (1)(a), the applicant must, as soon as possible, give written particulars of the change to the authority.

Penalty:        100 penalty units.

- (3) Information supplied under subsection (2) is to be:
- (a) verified by a signed statutory declaration; and
  - (b) treated by the authority as if forming part of the application.

## **16 Refusal to consider or withdrawal of application**

- (1) The authority may refuse to determine an application for a licence that does not comply with a requirement under section 14 or 15.
- (2) An applicant may withdraw his or her application for a licence at any time.
- (3) If the authority refuses to determine an application or an applicant withdraws his or her application, the authority may refund the whole or a part of the fee that accompanied the application.

## **17 Authority may investigate applicant**

- (1) In determining whether to grant a licence to an applicant, the authority may carry out the investigations and inquiries in respect of the applicant or an associate of the applicant that the authority considers appropriate, including obtaining a criminal history report from the Commissioner of Police and making inquiries with and accepting the results of investigations made by persons outside the Territory.
- (2) Without limiting subsection (1), in determining whether to grant a licence the authority must have regard to the following:
- (a) whether the applicant is of good repute, having regard to the character and honesty and integrity, the business reputation and the associates of the applicant;
  - (b) whether the applicant has been found guilty of an offence against this Act or the *Racing and Betting Act*, an offence against an Act of a State or other Territory of the Commonwealth that relates to wagering or the conduct of totalisator wagering or an offence involving dishonesty;



- (c) whether the applicant's financial position and financial background is sound and stable;
  - (d) whether the applicant has or is able to obtain the financial resources to establish or operate a totalisator or to conduct totalisator wagering, to obtain the services of persons who have appropriate expertise or experience that should enable the applicant to successfully conduct the operations of the licence and to otherwise ensure the financial viability of the operations conducted under the licence;
  - (e) whether the applicant has the capacity and appropriate ability, expertise or experience to establish or operate a totalisator or to conduct totalisator wagering;
  - (f) if the applicant is a body corporate – whether the applicant has or has arranged a satisfactory ownership, trust or corporate structure;
  - (g) in the case of the applicant's associates:
    - (i) whether each director, partner, trustee, executive officer, secretary and any other officer, employee or other associate of the applicant connected with the ownership, administration or management of the operations or business of the applicant is a suitable person to be involved in or connected with the operation of a totalisator or the conduct of totalisator wagering; and
    - (ii) whether the associates are of good repute having regard to the character, business reputation and financial position and financial background of the associates; and
  - (h) any other prescribed matter.
- (3) To avoid doubt, a person who is bankrupt, is taking the benefit of a law for the relief of bankrupt or insolvent debtors or compounds with the person's creditors to make an assignment of the person's remuneration for their benefit or otherwise takes advantage of the laws of bankruptcy is not suitable for the purposes of granting a licence.

## **18            Inquiry by Commissioner of Police**

- (1) If the authority decides to obtain a criminal history report of an applicant or an applicant's associate, the authority must give to the Commissioner of Police the applicant's or associates signed authority for the release to the authority of details of his or her criminal history.

- (2) On receiving the signed authority, the Commissioner of Police must give the authority:
  - (a) a written report of the criminal history of the person who signed the authority notwithstanding that part of the criminal history is a spent conviction within the meaning of the *Criminal Records (Spent Convictions) Act*; and
  - (b) any other information relating to the character of the person in his or her possession that may assist the authority.
- (3) In this section, ***criminal history*** means the criminal history:
  - (a) that is in the Commissioner of Police's possession; or
  - (b) that the Commissioner of Police may access through arrangements with the police service of the Commonwealth, a State or another Territory of the Commonwealth, another body politic outside Australia or the International Criminal Police Commission.

## **19            Cost of investigations etc.**

- (1) The authority may require an applicant for a licence to pay to the authority an amount not exceeding the fees or charges incurred by the authority in carrying out its investigations and inquiries under section 17 in relation to the applicant.
- (2) The authority may require the applicant to make the payment referred to in subsection (1) before it grants a licence to the applicant.
- (3) An amount payable under subsection (1) is recoverable as a debt due and payable by the applicant to the authority.

## **20            Determination of application and grant or refusal of licence**

- (1) In determining an application for a licence, the authority must consider the prescribed matters (if any) and the investigations and inquiries conducted regarding the application.
- (2) On completion of its consideration of the matters under subsection (1), the authority may grant the licence or refuse to grant the licence.
- (3) Subject to this Act, the authority may grant a licence subject to the conditions it considers appropriate.
- (4) If the authority refuses to grant the licence, the authority must notify the applicant in writing of its refusal.

- (5) The decision of the authority to grant or to refuse to grant a licence is final and may not be challenged or called into question, and is not subject to prohibition, mandamus or injunction, in any court or on any ground.

## **21            Exclusivity**

The authority may grant a licence that authorises a person to:

- (a) establish or operate a totalisator in the Territory or at a specified location in the Territory;
- (b) conduct totalisator wagering in the Territory or at a specified location in the Territory; or
- (c) conduct totalisator wagering in the Territory on a race or a class of races or an event, sport or activity or a class of events, sports or activities,

as specified in the licence, to the exclusion of any other person for the term of the licence or other shorter period specified in the licence.

## **22            Term and renewal of licence**

- (1) The authority may grant a licence:
- (a) that has effect until it is cancelled or surrendered; or
  - (b) for the period specified in the licence.
- (2) Subject to section 23, a licence referred to in subsection (1)(b) may be renewed.

## **23            Renewal of licence**

- (1) A licensee:
- (a) may apply to the authority to renew his or her licence; and
  - (b) if the licensee does apply to renew his or her licence – must do so at least 6 months before the licence expires.
- (2) Despite subsection (1)(b):
- (a) the authority must not consider an application for the renewal of a licence that is made 2 years or more before the licence expires; and

- (b) the authority may accept an application for the renewal of a licence that is made less than 6 months before the licence expires.
- (3) This Part applies to and in relation to the renewal of a licence as if the references in this Part to an application for a licence, the grant of a licence or a licence include references to an application to renew a licence, the renewal of a licence or a renewed licence.

## **Division 2            Form and terms and conditions of licence etc.**

### **24            Form of licence**

- (1) A licence is to be in writing given to the licensee.
- (2) The licence document is to specify all the terms and conditions of the licence, except for the prescribed conditions.

### **25            Duration of licence**

- (1) A licence has effect:
  - (a) for the period for which it is granted;
  - (b) until it is cancelled;
  - (c) until it is surrendered; or
  - (d) unless it is suspended.
- (2) The suspension of a licence does not have the effect of extending the period the licence has effect to a date after the date on which the period for which the licence is granted expires.

### **26            Terms and conditions of licence**

- (1) A licence is subject to:
  - (a) the terms and conditions imposed by the authority; and
  - (b) the prescribed conditions.
- (2) It is a condition of a licence that the licensee:
  - (a) must notify the authority of any change in the information material to the grant of the licence within 7 days after the change occurs;
  - (b) may carry out only the activities in relation to a totalisator and totalisator wagering authorised by the licence;

- (c) must operate a totalisator that is comprised of only the equipment, machinery and other workings approved by the authority;
  - (d) must comply with the licence, this Act, the Regulations and the Rules; and
  - (e) must not make any arrangement or agreement or engage in any conduct that is inconsistent with the licence.
- (3) A licence must specify each premises of the licensee and the operator of each premises and each agency of the licensee.
- (4) A licensee must not contravene a term or condition of the licensee's licence.

Penalty:            In the case of a natural person – 500 penalty units or imprisonment for 2 years and, in addition, 5 penalty units for each day during which the offence continues after the first day on which it is committed.

In the case of a body corporate – 2500 penalty units and, in addition, 25 penalty units for each day during which the offence continues after the first day on which it is committed.

### **Division 3            Variation, transfer and surrender of licence**

#### **27            Variation of licence**

- (1) Subject to this section and sections 28 and 29, the authority may:
- (a) on its own motion; or
  - (b) on the application of a licensee in a form approved by the authority,
- by notice given to the licensee vary the terms and conditions of the licensee's licence.
- (2) Before varying a licence under subsection (1)(a), the authority must give the licensee written notice:
- (a) specifying the proposed variation;
  - (b) specifying the reasons for the variation; and
  - (c) inviting the licensee to, within the period of not less than 28 days specified in the notice, submit reasons why the variation should not be made.

- (3) If, after considering the submissions of the licensee (if any), the authority continues to consider that variation of the licence is appropriate, the authority may vary the licence, whether or not as proposed in the notice under subsection (2).
- (4) If a licensee applies under subsection (1)(b) to vary the licence by deleting, adding or substituting premises, the authority must vary the licence accordingly on being satisfied that to do so would not result in the licensee contravening a law in force in the Territory.
- (5) A licence may be varied by the addition of a new term or condition or the substitution or deletion of any of its existing terms and conditions.
- (6) A variation of a licence takes effect on:
  - (a) the date notice of the variation is given to the licensee; or
  - (b) the date specified for that purpose in the notice,whichever last occurs.
- (7) A licensee must comply with his or her licence as varied under this section.
- (8) Subsections (2), (3), (4), (5) and (6) do not apply if the variation is for a formal or clerical reason that does not alter the effect of the licence.

## **28            Variation of agent specified in licence**

- (1) If a licensee makes an application under section 27(1)(b) to vary the licensee's licence by deleting, adding or substituting an agent, this section applies.
- (2) The application to vary the licence must be given to the Director.
- (3) On receiving an application to delete an agent, the Director must immediately, by notice given to the licensee, vary the licence accordingly.
- (4) On receiving an application to add or substitute an agent, the Director may carry out the inquiries he or she thinks necessary to determine if the proposed agent is suitable.
- (5) The Director must carry out his or her inquiries immediately and expeditiously.

- (6) If it appears to the Director that the proposed agent is suitable, he or she must, by notice given to the licensee, vary the licence by adding or substituting the agent.
- (7) A variation under subsection (3) or (6) takes effect on the date notice of the variation is given to the licensee.
- (8) At its next meeting after the date of a variation under subsection (6), the authority must consider the application for the variation and, after doing so, must, by notice given to the licensee:
  - (a) for the purposes of sections 43 and 44 – approve or refuse to approve the establishment of the agency with the agent added or substituted by the variation; and
  - (b) ratify (if satisfied that the variation does not result in the licensee contravening a law in force in the Territory) or refuse to ratify the variation of the licence.
- (9) If the authority refuses to approve the establishment of the agency or refuses to ratify the variation of the licence, the agent must cease to carry on business as the licensee's agent within 2 days after the date the notice is given to the licensee.

## **29            Licence may provide for variation**

- (1) A licence may specify the manner in which a term or condition of the licence is to be varied.
- (2) If a licence specifies the manner for varying a term or condition of the licence, sections 27 and 28A do not apply to any variation of that term or condition and that term or condition is to be varied in accordance with the manner specified.

## **30            Transfer of licence**

- (1) A licensee may not transfer his or her licence unless the authority approves the transfer of the licence.
- (2) The authority may impose conditions on the transfer of a licence.
- (3) A licensee who transfers his or her licence must comply with the conditions imposed on the transfer by the authority.
- (4) If a licensee purports to transfer the licensee's licence without the approval of the authority or in a manner that contravenes the conditions imposed on the transfer, the licensee's licence is, by force of this subsection, cancelled.

- (5) Nothing in this section affects a right of action in respect of the purported transfer of a licence of a person to whom the licence would, but for its cancellation under subsection (4), have been transferred.

Penalty:        In the case of a natural person – 100 penalty units or imprisonment for 6 months.

                    In the case of a body corporate – 500 penalty units.

### **31            Surrender of licence**

- (1) A licensee may, in writing to the authority, surrender his or her licence.
- (2) The surrender of a licence does not take effect unless it is accepted by the authority.
- (3) The authority must in writing notify the person who was the licensee under the licence that it has accepted the surrender of a licence.
- (4) On the authority accepting the surrender of a licence, the licence ceases to have effect but the person who surrendered the licence remains liable for:
- (a) unless the authority determines otherwise, the payment of all outstanding fees, taxes and charges payable in relation to the operation of a totalisator or conduct of totalisator wagering under the licence;
  - (b) the payment to the Territory of any dividends or other payments or prizes that are unclaimed or unpaid at the date of the surrender;
  - (c) the payment to the Territory of the amount equal to the credit balances in betting accounts with the person as licensee at the date of the surrender;
  - (d) any other liability incurred by or obligation imposed on the person as licensee; and
  - (e) an act or omission done, caused, permitted or made by the person as licensee before the surrender.
- (5) For the purposes of subsection (4)(b) and (c), the person surrendering a licence must give to the authority a list of the following persons:
- (a) persons who have not been paid dividends or other money owing to them by the person as licensee;



- (b) persons who have not claimed from the person as licensee prizes they have won;
- (c) persons who have a credit balance in a betting account with the person as licensee.

## **Part 4 Rights and obligations of licensees**

### **Division 1 Calculation and payment of wagering tax**

#### **32 Definitions**

In this Division:

**Commissioner of Taxes** means the Commissioner as defined in section 4(1) of the *Taxation (Administration) Act*.

#### **33 Application of *Taxation (Administration) Act***

- (1) Subject to this Division, the *Taxation (Administration) Act* applies, with the necessary changes, to the payment and recovery of wagering tax as if:
  - (a) wagering tax were duty within the meaning of that Act;
  - (b) a return under this Division were a return within the meaning of that Act; and
  - (c) a licensee were a person liable to pay duty under that Act.
- (2) Nothing in subsection (1) affects the application of the *Taxation (Administration) Act* to any other matter referred to in this Act.

#### **34 Liability to pay wagering tax**

- (1) Without limiting a licensee's liability to pay any other tax or charge under a law of the Territory, the licensee must pay to the Commissioner of Taxes the amount that equals the amount that represents the prescribed percentage of the licensee's commission deducted for each month less the amount equal to the amount of GST (if any) paid or payable in relation to every supply to which that amount of commission relates.
- (2) In subsection (1), **GST** and **supply** have the same respective meanings as in the *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth.

- (3) The Regulations may prescribe a percentage under subsection (1) in relation to a race, event, sport or activity or a class of races, events, sports or activities.

### **35 Payment of tax**

- (1) A licensee must pay the wagering tax payable for a month within 7 days after the last day of the month or the time allowed for payment under subsection (2).
- (2) The Commissioner of Taxes may extend the time within which a licensee must pay the wagering tax payable for a month to not more than 28 days after the last day of the month.

Penalty: In the case of a natural person – 100 penalty units.

In the case of a body corporate – 500 penalty units.

### **36 Monthly returns**

- (1) A licensee must each month lodge with the Commissioner of Taxes a return in respect of the licensee's commission deducted for the immediately preceding month.
- (2) The return is to:
- (a) be lodged when the licensee pays the wagering tax for the month to which the return relates;
  - (b) set out the computation of the licensee's commission and the amount of wagering tax payable by the licensee for that month;
  - (c) contain any other information required by the Commissioner of Taxes; and
  - (d) be presented in a form approved by the Commissioner of Taxes.

Penalty: In the case of a natural person – 100 penalty units.

In the case of a body corporate – 500 penalty units.

### **37 Finding of guilt for offence relating to payment of wagering tax does not exempt licensee from payment of tax**

If a licensee is found guilty of an offence relating to the payment or non-payment of wagering tax, the finding of guilt of the licensee does not exempt the licensee from payment of the wagering tax to which the offence relates.

## **Division 2 Audit**

### **38 Auditor**

- (1) The authority must appoint a person to be an auditor to carry out an audit for the purposes of this Division.
- (2) In appointing an auditor under subsection (1), the authority may appoint the Auditor-General to be the auditor.
- (3) The *Audit Act* does not apply to or in relation to an audit carried out for the purposes of this Division.

### **39 Audit of operations of licensee**

- (1) The auditor must audit the operations of a licensee:
  - (a) within 3 months of the end of each financial year; and
  - (b) at any other time when directed to do so by the authority,and report to the authority in relation to each audit.
- (2) In conducting an audit, the auditor must verify that:
  - (a) the licensee is conducting his or her operations in accordance with the licensee's licence; and
  - (b) the licensee has paid the correct amount of wagering tax during the period to which the audit relates.
- (3) If, after considering a report of the auditor, the authority is not satisfied that the licensee has satisfactorily observed the terms and conditions of his or her licence or the requirement to pay wagering tax, the authority may require the licensee to provide additional information about the licensee's operations.

### **40 Powers of auditor**

- (1) The auditor:
  - (a) is entitled at all reasonable times to full and free access to a licensee's accounts and records as necessary to complete an audit;
  - (b) may request the licensee, the licensee's agent or operator or an employee of the licensee to answer a question or to produce any document relating to the licensee's records that is under his or her custody or control; and

- (c) may make copies of or take extracts from a record or other document to which the auditor has access or that is produced for the auditor.
- (2) A person must not hinder, obstruct or interfere with the auditor in the proper conduct of an audit under section 39.

Penalty: 100 penalty units.

#### **41 Cost of audit**

- (1) The authority may require a licensee to pay to the authority an amount not exceeding the costs and expenses incurred by the auditor in conducting an audit of the operations of the licensee under section 39.
- (2) An amount payable under subsection (1) is recoverable as a debt due and payable by the licensee to the authority.

### **Division 3 Other**

#### **42 Operators**

- (1) Subject to this section, the licensee must appoint in respect of each of the licensee's premises in the Territory a natural person who resides in the Territory to manage the operations of the licensee conducted on the premises.
- (2) A licensee may not appoint a person to be an operator unless the authority approves the appointment of the person.
- (3) The authority must not give its approval for the appointment of an operator unless it is satisfied that the person is suitable to be appointed.
- (4) The authority may carry out the inquiries under section 17 and 18 it considers appropriate to determine whether a person is suitable to be appointed an operator and sections 17 and 18 apply with the necessary changes.

#### **43 Agencies**

- (1) Subject to the approval of the authority to do so, a licensee may establish an agency for the conduct of totalisator wagering under the licensee's licence in a building or part of a building occupied by another person.

- (2) In the conduct of totalisator wagering under an agency:
  - (a) the actions of the agent are taken to be the actions of the licensee as if the licensee had performed them; and
  - (b) if the actions of the agent constitute or allegedly constitute an offence and the licensee authorised those actions (either expressly or by implication) – the licensee may be prosecuted for the offence in relation to those actions unless the licensee satisfies the court that the licensee exercised reasonable care to prevent the commission or alleged commission of the offence by the agent.
- (3) The prosecution of a licensee under subsection (2)(b) does not affect the liability in respect of the offence of the agent who carried out the actions constituting the offence.
- (4) A term of any agreement that is contrary to the operation of subsection (2) has no effect.

**44 Licensee may make agreements for conduct of operations under licensee's licence**

- (1) Subject to the approval to do so by the authority, a licensee may negotiate and enter into an agreement, including an agreement to establish an agency, with:
  - (a) another person, whether that person's principal place of residence or business is in or outside of the Territory and whether that person operates a totalisator or conducts totalisator wagering; or
  - (b) a club,for the purpose of operating a totalisator or conducting totalisator wagering under the licensee's licence.
- (2) An agreement under this section may only relate to operations that are authorised by the licensee's licence.
- (3) An agreement under subsection (1)(a) may relate to the operation of a totalisator or conduct of totalisator wagering in or outside the Territory.
- (4) An agreement under subsection (1)(b) may only relate to the operation of a totalisator or conduct of totalisator wagering in the Territory.

- (5) A person with whom or a club with which a licensee makes an agreement referred to in this section is not required to hold a licence authorising the operation in the Territory of the totalisator or the conduct of totalisator wagering that is the subject of an agreement.

#### **45 Records**

- (1) A licensee must keep and maintain the records that correctly record and explain the operations of the licensee under his or her licence.
- (2) The records kept by the licensee are to include accounting records that record and explain the transactions of the licensee and any business carried on under the licensee's licence by an agent and give a true and fair view of the licensee's financial position.
- (3) The licensee must keep each record for 5 years.
- (4) The records are to be kept:
- (a) at the principal place of business of the licensee in the Territory;
  - (b) if the licensee's registered office is outside the Territory and the authority gives its approval – at that office; or
  - (c) any other place approved by the authority.
- (5) The licensee may keep the records in any form but the records must be in a form that enables:
- (a) the licensee to provide information relating to the licensee's financial transactions on the request of the authority or an inspector;
  - (b) in complying with a request of the authority or inspector referred to in paragraph (a) – the information on the records to be converted to or reproduced as, with or without the aid of an article or device, a document in written English; and
  - (c) the records to be conveniently and properly audited.

Penalty: In the case of a natural person – 50 penalty units.

In the case of a body corporate – 250 penalty units.

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## **Part 5                    Rules**

### **46                    Power to make rules**

- (1) The authority may make rules, not inconsistent with this Act, for the operation of totalisators and the conduct of totalisator wagering in the Territory.
- (2) Without limiting subsection (1), the authority may make rules that:
  - (a) prescribe the amount and manner in which bets are to be accepted and paid for;
  - (b) provide for the establishment and management of betting accounts with a licensee by persons who make bets with the licensee;
  - (c) prescribe the conditions relating to making bets with a licensee, including:
    - (i) the method of identification of persons offering to make bets;
    - (ii) the manner of acknowledging bets;
    - (iii) the manner of recording bets made;
    - (iv) the information relating to bets that is to be kept by a licensee; and
    - (v) the period for which a licensee is to retain that information and the form in which it is to be retained;
  - (d) provide for the payment of dividends on bets placed with a licensee and prescribe the manner for distributing and paying the dividends, including the arrangements where there are no winning bets, the manner of claiming the payment of a dividend and the payment of dividends on bets made by post or an electronic form;
  - (e) prescribe the manner in which unclaimed dividends are to be dealt with;
  - (f) provide for the deduction of commission;
  - (g) provide for the establishment of a dividend equalisation account by a licensee and the amounts to be paid into or credited to the account;

- (h) provide for the use of the telephone or other electronic means, including on a computer system using the internet, to make bets, pay dividends and withdraw from and deposit in accounts held with a licensee and to enable a licensee to provide information to persons interested in wagering;
  - (j) prescribe penalties not exceeding 100 penalty units for offences against the Rules; and
  - (k) designate an offence against a rule as a regulatory offence.
- (3) In exercising its power to make rules under subsection (1), the authority may make a rule that:
- (a) deals with wagering on races or events, sports or activities occurring outside the Territory;
  - (b) applies, adopts or incorporates, either wholly or in part, any rules, specifications or methods concerning the operation of totalisators or the conduct of totalisator wagering, as in force at a particular time or as in force from time to time, prescribed or published under an Act of a State or another Territory of the Commonwealth or a law in force in another country; or
  - (c) requires anything referred to in it to be in accordance with any rule, specification or method referred to in paragraph (a).
- (4) A rule applied, adopted or incorporated in accordance with subsection (3) has the same force and effect, and may be amended or repealed, as if it were a rule made by the authority under subsection (1).

**47 Rules not required to be numbered**

Section 57 of the *Interpretation Act* does not apply to the Rules.

**48 Publication of rules etc. applied, adopted or incorporated**

The authority must make copies of each rule, specification or method, or the part of each rule, specification or method, applied, adopted or incorporated in accordance with section 46(3) available at the offices of the authority during normal working hours:

- (a) for inspection by a member of the public without charge; and
- (b) for purchase by a member of the public on payment of the charge the authority requires.



**49 Compliance with rules**

A licensee must comply with the rules.

**Part 6 Totalisator inspectors**

**Division 1 Appointment, powers and functions of inspectors**

**50 Appointment**

- (1) Subject to this Part, the authority may, in writing, appoint a person it considers suitable to be a totalisator inspector.
- (2) The Director and each Deputy Director are inspectors ex officio.

**51 Suitability of persons to be appointed inspectors**

- (1) The authority may not appoint a person to be an inspector under section 50(1) unless it is satisfied that:
  - (a) the person has the necessary expertise or experience to carry out the functions of an inspector; and
  - (b) the person is of good character.
- (2) The authority may carry out the inquiries it thinks necessary to determine whether a person is suitable to be appointed an inspector.

**52 Terms and conditions of appointment**

- (1) An inspector appointed under section 50(1):
  - (a) is appointed for the term specified in the instrument of appointment; and
  - (b) holds office on the terms and conditions specified in the instrument of appointment.
- (2) The authority must, in the instrument of appointment of an inspector, specify which of the powers conferred on inspectors under this Part the inspector has and the conditions of the exercise of those powers.
- (3) An inspector:
  - (a) may only exercise the powers specified in relation to him or her under subsection (2); and

- (b) must exercise his or her powers subject to the conditions specified under that subsection.

### **53 Identity cards**

- (1) The authority must issue to each inspector an identity card.
- (2) An identity card is to:
  - (a) contain a photograph and be signed by the inspector; and
  - (b) identify the person as an inspector.
- (3) An inspector must:
  - (a) carry his or her identity card when exercising his or her powers; and
  - (b) produce his or her identity card on being requested to do so by a person in respect of whom the inspector is exercising has exercised or is about to exercise his or her powers under this Act.
- (4) A person must as soon as reasonably possible after ceasing to be an inspector return his or her identity card to the authority.

Penalty: 20 penalty units.

- (5) An offence against subsection (4) is a regulatory offence.
- (6) An inspector must not allow another person to use his or her identity card.

Penalty: 50 penalty units.

### **54 Inspectors subject to direction of authority**

An inspector exercises his or her powers and performs his or her functions subject to the directions of the authority.

### **55 Functions of inspectors**

The functions of an inspector are to ensure that licensees:

- (a) observe and comply with their licences, this Act, the Regulations and the Rules; and
- (b) operate their totalisators in accordance with the Rules.

## **56 Powers of inspectors**

- (1) An inspector may carry out an inspection to ascertain whether a licensee or an agent is carrying on the licensee's or agent's business in accordance with the licensee's licence, this Act, the Regulations or the Rules or totalisators are being operated in accordance with the Rules.
- (2) For the purposes of carrying out an inspection, an inspector may:
  - (a) at any time enter the premises of a licensee or agent or any other place where business under the licensee's licence is carried on, whether in or outside of the Territory;
  - (b) request production of the licensee's licence or evidence of the licence;
  - (c) search the premises or other place;
  - (d) access in any manner, including electronically, a system used for conducting totalisator wagering on the premises or other place;
  - (e) inspect, examine, measure, test, photograph or film the premises or other place, the machinery, parts and workings of a totalisator or any other device, thing or document on the premises or other place that relates to the licensee's business under the licence;
  - (f) request a person on the premises or other place to answer questions, produce a document or thing kept there that relates to the licensee's business under the licence or give any other assistance the inspector requests to carry out the inspection;
  - (g) copy or take extracts from a document produced or inspected or request a person on the premises or other place to provide a copy of or extract from the document;
  - (h) take and detain a thing or a sample of a thing on the premises or other place that relates to the licensee's business under the licence for analysis or testing or request a person to bring the thing or a sample of the thing to a place and remain in control of it at that place until permitted by an inspector to depart from that place;
  - (j) remove and retain a document referred to in paragraph (e) or (f) which he or she has reasonable grounds to believe is evidence of or otherwise relates to an offence against the Act, the Regulations or the Rules for so long as is reasonably necessary for the purpose of making copies of or taking

extracts from the document;

- (k) seize, remove and detain, or require the production of, machinery or a device or other thing that he or she has reasonable grounds to believe is evidence of or otherwise relates to an offence against the Act, the Regulations or the Rules; and
  - (m) exercise any prescribed powers.
- (3) In carrying out an inspection an inspector must not:
- (a) interfere with the operation of the totalisator while the inspector is examining the machinery, parts or workings of the totalisator; or
  - (b) if he or she is requested to produce his or her identity card by a person on the premises – remain in or on the premises unless he or she produces his or her identity card for that person.
- (4) If an inspector enters a racecourse in the Territory for the purpose of inspecting a totalisator located on the racecourse, he or she may enter the racecourse without charge.

## **57 Consent to enter premises**

- (1) Before an inspector may enter and inspect premises or a place under section 56, the inspector must give the licensee and the licensee's agent or operator reasonable written notice of his or her intention to do so unless:
- (a) the licensee consents or, in the case of premises occupied by the licensee's agent, both the licensee and the agent consent to the entry and inspection;
  - (b) the inspector believes on reasonable grounds that there are circumstances of such seriousness and urgency that require and justify immediate entry and inspection without the authority of a search warrant issued under section 58; or
  - (c) entry and inspection are authorised by a search warrant issued under section 58.
- (2) If an inspector enters and inspects premises in circumstances referred to in subsection (1)(b), the inspector is authorised to enter and remain on the premises or place and carry out the inspection with the force that is necessary and reasonable.

## **58 Search warrants**

- (1) An inspector wishing to enter and inspect premises or a place under section 56 may apply to a Justice for a search warrant if:
  - (a) entry has been refused, opposed, prevented or otherwise cannot be obtained; or
  - (b) the giving of notice under section 57 is unusually difficult or would cause an unreasonable delay or defeat the purpose for entering and inspecting the premises.
- (2) If the Justice is satisfied by evidence on oath that there are reasonable grounds to carry out the inspection and that consent to enter the place or building cannot or should not be obtained, the Justice may issue a search warrant to the inspector.
- (3) The search warrant authorises the inspector to:
  - (a) enter and remain on the premises or place specified in the warrant at the time or within the period specified in the warrant; and
  - (b) exercise the powers specified in section 56 for the purpose specified in the warrant,

with the force that is necessary and reasonable.

## **59 Inspector to issue receipt for thing seized**

- (1) An inspector who seizes, removes and detains machinery or a device or thing or removes and detains a document under section 56 must, before removing it from the premises or other place inspected, complete a receipt in respect of the machinery, device, thing or document in accordance with subsection (2).
- (2) The inspector must record the following information on the receipt:
  - (a) the date of the inspection;
  - (b) the name of the inspector;
  - (c) the address of the premises or other place inspected;
  - (d) in the case of removing a document – a description of the document, the reason why it is being removed and a statement that it will be detained only for the purpose of making copies of or taking extracts from it;

- (e) in the case of removing machinery or a device or thing – a description of the machinery, device or thing, the reason why it is being seized, a statement that the machinery, device or thing will be delivered to the Director and the address and telephone number of the office of the Director.
- (3) The inspector must:
- (a) give the receipt to the licensee, the licensee's agent or operator or an employee of the licensee or agent present on the premises or other place; or
  - (b) in the absence of a person referred to in paragraph (a) – leave the receipt in a conspicuous place on the premises or other place.

**60 Person to comply with request of inspector etc.**

A person must not:

- (a) without reasonable excuse, refuse or fail to comply with a request made by an inspector under section 56;
- (b) without reasonable excuse, refuse or fail to answer a question put by an inspector;
- (c) otherwise obstruct, hinder or interfere with an inspector in the proper execution of his or her duties; or
- (d) give an answer to a question put by an inspector that is false or misleading in a material particular.

Penalty: 100 penalty units.

**61 Restriction on employment of persons who were inspectors**

A person whose appointment as inspector terminates (for whatever reason) must not:

- (a) be employed or engaged by a licensee or a licensee's agent;  
or
- (b) be the agent of a licensee,

unless the authority gives its approval to do so or 12 months has passed since the termination of the person's appointment (whichever occurs first).

Penalty: 50 penalty units.

## **Division 2 Detention and return of machinery etc. seized**

### **62 Delivery of thing seized to Director**

An inspector who seizes and removes machinery, a device or thing under section 56 must, as soon as reasonably possible after doing so, deliver it to the Director.

### **63 Detention of thing seized**

Subject to this Part, the Director may retain in his or her possession or under his or her control machinery, a device or thing delivered under section 62 until the institution of proceedings for an offence against this Act, the Regulations or the Rules in relation to the thing and, if necessary, during the proceedings.

### **64 Return of thing seized**

If:

- (a) no proceedings are instituted for an offence relating to machinery, a device or thing delivered to the Director; or
- (b) proceedings instituted for an offence relating to the machinery, device or thing are not proceeding or have concluded and the Court has not made an order forfeiting the machinery, device or thing to the Territory under section 66,

the Director must deliver the machinery, device or thing into the custody of the licensee from whom it was seized or to the licensee's agent or operator.

### **65 Return of thing seized pending prosecution**

- (1) Despite section 64, the licensee or licensee's agent or operator who would, but for the seizure of the machine, device or thing under this Part, be entitled to possession of it may, any time before the trial of a person for an offence to which the seizure relates, apply to the Director for the return of the thing to him or her.
- (2) If an application is made for the return of the machine, device or thing, the Director may release it subject to the conditions relating to its production as evidence at the trial as the Director thinks fit.

### **66 Forfeiture of thing seized**

- (1) If a person is found guilty of an offence relating to the machinery, device or thing seized and delivered to the Director under this Part, the Court may order that the machinery, device or thing is forfeited to the Territory.

- (2) A forfeiture under subsection (1) is in addition to any penalty imposed on a person found guilty of the offence.

**67            Disposal of thing**

All machinery, devices or things forfeited under this Part may be destroyed or disposed of in a manner determined by the Director.

**Part 7            Control of conduct of licensees**

**Division 1        Interpretation**

**68            Reference to licensees who are clubs, companies or other body corporates**

A reference in this Part to the conduct or operations of a licensee that is a club, company or other body corporate includes a reference to the conduct or actions of each person who is a director or other officer or is a member concerned in the management of the club, company or body corporate.

**Division 2        Complaints**

**69            Making of complaint**

- (1) A person may make a complaint regarding the conduct or operations of a licensee.
- (2) A complaint is to be:
- (a) in a written form approved by the authority and is to set out the grounds on which the complaint is made and the facts relied on by the person to constitute the grounds;
  - (b) signed by the person making it; and
  - (c) lodged with the Director.
- (3) If a complaint is lodged with the Director, the Director must:
- (a) inform the licensee of the complaint within 48 hours after receiving it and give the licensee sufficient opportunity to provide a written reply to the complaint;
  - (b) investigate the substance of the complaint as he or she thinks fit; and
  - (c) forward the complaint, the reply from the licensee, if any, and a report on his or her investigation to the authority.



## **70            Consideration and decision of authority**

- (1) If the authority receives a complaint under section 69, the authority:
  - (a) must consider the complaint, taking into account any written reply of the licensee and report of the Director regarding the complaint;
  - (b) may conduct the investigations regarding the complaint it thinks fit; and
  - (c) may require or, if requested to do so by the licensee, must permit the licensee to appear before the authority to make submissions or answer questions regarding the complaint.
- (2) On completion of its consideration of and investigations into a complaint, the authority must make a determination:
  - (a) that, in the opinion of the authority, the complaint is of a frivolous, irrelevant or malicious nature, and dismiss the complaint;
  - (b) that no further action is warranted;
  - (c) to reprimand the licensee;
  - (d) to fine the licensee an amount not exceeding the prescribed amount; or
  - (e) to conduct a hearing in relation to the complaint.
- (3) The Regulations may prescribe the maximum number of penalty units for a fine that may be imposed under subsection (2)(d).
- (4) The Director must, as soon as reasonably possible after the authority makes its determination, inform the person who made the complaint and the licensee against whom the complaint was made of the determination.
- (5) A fine imposed under subsection (2) is recoverable as a debt due and payable by the licensee to the authority.

## **Division 3            Directions**

### **71            Authority may give directions**

- (1) If a licensee:
  - (a) contravenes or fails to comply with a condition of his or her licence;

- (b) has contravened or failed to comply with this Act or another law of the Territory relating to the conduct of the business under his or her licence;
- (c) fails to promptly pay a fee or wagering tax under this Act; or
- (d) in the opinion of the authority, is acting, was acting or is likely to act in a manner that is contrary to the good repute of the licence and has brought the conduct of the business to which it relates into disrepute,

the authority may, in writing, direct the licensee to:

- (e) adopt, vary, cease a practice or refrain from taking an action or a proposed action in respect of the conduct of the licensee's business under the Act;
- (f) take, within the time specified in the direction, an action to rectify or minimise the effects of the licensee's contravention, failure or other action; or
- (g) refrain from taking an action in relation to the contravention or failure.

(2) If a licensee's agent or operator:

- (a) conducts totalisator wagering on behalf of the licensee in a manner that contravenes a condition of the licensee's licence, this Act or another law of the Territory relating to the conduct of the business under the licence;
- (b) is found guilty of an offence against the Act, the Regulations or the Rules or any other offence involving dishonesty; or
- (c) in the opinion of the authority, is or was acting in a manner that is contrary to the good repute of the licensee's licence and has brought the conduct of the licensee's business into disrepute,

the authority may, in writing, direct the licensee to terminate the licensee's agency arrangement with the agent or the appointment of the operator.

(3) A licensee must comply with a direction given to the licensee under this Division.

## **Division 4 Suspension, variation and cancellation of licence**

### **72 Suspension or variation of licence in certain circumstances**

(1) If:

- (a) a complaint is made under section 69 or an application to cancel a licence is made under section 73 and in the opinion of the authority it is in the interest of the public to do so until the determination or dismissal of the complaint or application;
- (b) the authority has issued a direction to a licensee under section 71 and is of the opinion that suspension or variation of the licensee's licence is in the interest of the public until compliance with the direction; or
- (c) a licensee has contravened or failed to comply with his or her licence, this Act, the Regulations or the Rules and in the opinion of the authority the contravention or failure to comply is of sufficient gravity to justify the suspension or variation of the licence,

the authority may, in writing:

- (d) suspend the licensee's licence for a period not exceeding 6 months; or
  - (e) impose a condition on or vary a condition of the licensee's licence.
- (2) A notice under subsection (1) is to:
- (a) specify the reasons for the suspension or variation; and
  - (b) in the case of the suspension of the licence – specify the period for which the suspension has effect.
- (3) The suspension or variation of a licence takes effect on:
- (a) the date on which the licensee receives the notice referred to in that subsection; or
  - (b) if a later date is specified in the notice – that date.
- (4) Despite subsection (2)(b), the authority may, if it considers suspension or variation of a licence is no longer justified, revoke the notice of suspension or variation given under subsection (1).

### **73 Application for cancellation of licence**

- (1) If it comes to the attention of the Director that a licensee:
- (a) has been found guilty of an offence against this Act, the Regulations or the Rules;
  - (b) has been found guilty of an offence otherwise relating to the business of the licensee under the licence or in respect of which a sentence of imprisonment for 6 months or more was imposed;
  - (c) has contravened or failed to comply with a direction given under section 71; or
  - (d) is otherwise considered not to be a fit or proper person to hold a licence,

the Director must apply to the authority for an order cancelling the licence.

- (2) The Director must deliver the application to the Chairperson together with a statement signed by the Director setting out:
- (a) the grounds on which the application is made; and
  - (b) the facts relied on by the Director to constitute the grounds.
- (3) The Director must, as soon as reasonably possible, forward a copy of the application and the statement to the licensee the subject of the application.

### **74 Consideration of application by authority**

The authority, after considering an application made under section 73, must:

- (a) if, in the opinion of the authority:
  - (i) the facts set out in the statement would not, if proven, establish the grounds on which the application is made; or
  - (ii) the grounds on which the application is made are not sufficient for cancelling the licence,dismiss the application; or
- (b) conduct a hearing in relation to the application.

## **Division 5 Dispute resolution**

### **75 Dispute between authority and licensee**

- (1) In the event of a dispute arising between the authority and a licensee as to what constitutes compliance with a term or condition of the licensee's licence that the authority and licensee cannot resolve, the authority or the licensee may require that the matter the subject of the dispute be resolved by arbitration or be determined by the Minister.
- (2) If the authority or licensee requires the resolution of a dispute by arbitration or the determination of a dispute by the Minister, the dispute is to be resolved or determined in accordance with the requirement.
- (3) Subsections (1) and (2) do not apply to or in relation to a dispute concerning a matter that is or has been the subject of:
  - (a) a complaint;
  - (b) a determination of the authority under section 70 or 74 to conduct a hearing;
  - (c) a request under section 82 or 83 to conduct a hearing;
  - (d) a hearing;
  - (e) an appeal under Part 8; or
  - (f) a review of a decision under Part 4 of the *Northern Territory Licensing Commission Act*.
- (4) For the avoidance of doubt, the resolution by arbitration or determination by the Minister of a dispute under this Division does not, unless section 77 or 78 applies, bar a person from dealing with a matter the subject of or relating to the dispute under Part 7 or 8.

### **76 Arbitration**

The arbitration of the dispute will be conducted in accordance with the prescribed procedures by a person appointed by the President of the Law Society Northern Territory as constituted by section 7 of the *Legal Practitioners Act*.

### **77 Resolution and arbitration proceedings not admissible**

Anything said, done or written for the purpose of the arbitration or determination of a dispute under this Division is not to be taken into account in any subsequent proceedings under this Act or the

prosecution of any offence against this Act that relate or relates to the dispute the subject of the determination or arbitration.

**78 Determination is final**

A decision of the Minister under this Division that determines a dispute or an arbitrator's determination under this Division that resolves a dispute is final and may not be challenged or called into question, and is not subject to prohibition, mandamus or injunction, in any court or on any ground.

**Division 6 Temporary licences**

**79 Grant of temporary licence**

- (1) Subject to this Division, if a licensee's licence is suspended or cancelled or the licensee surrenders his or her licence, the authority may grant a licence to a person who in its opinion is a fit and proper person to conduct the business of the suspended, cancelled or surrendered licence.
- (2) The temporary licence granted under subsection (1) is to be granted subject to the same terms and conditions of the suspended, cancelled or surrendered licence.
- (3) On the grant of the temporary licence, the operations, rights, liabilities and obligations under the cancelled, suspended or surrendered licence in place of which the temporary licence is granted continue unaffected under the temporary licence.
- (4) For the purposes of subsection (3), a reference in or under this Act or in any other document to:
  - (a) the suspended, cancelled or surrendered licence is to be taken to be a reference to the temporary licence; and
  - (b) the person to whom the suspended, cancelled or surrendered licence was granted is to be taken to be a reference to the person to whom the temporary licence is granted.

**80 Investigation of person who may be granted temporary licence; licensee may be granted temporary licence**

- (1) For the purpose of granting a temporary licence, the authority may make the investigations and carry out the inquiries it thinks fit to inform itself of the character of the proposed grantee and sections 17 and 18 apply with the necessary changes.
- (2) The authority may grant a temporary licence to a licensee.

**81            Term of temporary licence**

- (1) A temporary licence continues in force for 6 months or until:
- (a) if it is granted in respect of the business conducted under a licence that has been suspended – the expiry of the period of suspension;
  - (b) the authority grants another licence in respect of the business conducted under the temporary licence; or
  - (c) the authority cancels the temporary licence,
- whichever first occurs.

**Part 8            Hearings and appeals**

**Division 1        General**

**82            Person who makes a complaint may request hearing**

A person who makes a complaint under section 69 and who is not satisfied with the decision of the authority in respect of the complaint may request the authority to conduct a hearing in relation to the decision.

**83            Licensee may request hearing**

- (1) Subject to subsection (2), if the authority gives a direction under section 71 to a licensee or decides to suspend or vary a licence under section 27 or 72 or to refuse to ratify a variation under section 28A(8), the licensee the subject of the direction or decision may request the authority to conduct a hearing in relation to the direction or decision and the authority must comply with the request.
- (2) Subsection (1) does not apply in the case of an application to cancel a licence referred to in section 72(1)(a).

**84            Time for making and form of request for hearing**

- (1) A request for the conduct of a hearing by a person referred to in section 82 or 83 is to be made within 28 days after the person receives notice of the direction, suspension, variation or decision concerned.
- (2) The request is to:
- (a) be in writing in a form approved by the authority; and

- (b) set out the grounds on which the request is made and the facts relied on to substantiate those grounds.

**85            Operation of decision etc. until hearing or appeal determined**

- (1) A direction or decision referred to in section 82 or a decision referred to in section 83(1) that is the subject of a hearing continues to have effect during the conduct of the hearing.
- (2) A decision of the authority that is the subject of an appeal under Division 3 continues to have effect during the conduct of the appeal.

**Division 2            Hearing**

**86            Conduct of hearing**

- (1) The authority must conduct a hearing:
  - (a) in a manner that is fair and expeditious; and
  - (b) without regard to technicalities and legal forms.
- (2) In conducting a hearing the authority is not bound by the rules of evidence but may inform itself on any matter in the manner it considers appropriate but must give proper consideration to the issues.
- (3) The authority must keep a record of its proceedings in conducting a hearing.
- (4) Subject to this Act and the Regulations, the procedure at a hearing is as the authority determines.

**87            Decision of authority**

- (1) In determining a hearing in relation to a complaint under section 70(2)(f), the authority must, by notice in writing to the person who made the complaint and to the licensee concerned:
  - (a) vary a condition of, or impose a condition on the licence the subject of the hearing;
  - (b) issue a direction to the licensee under section 71; or
  - (c) suspend or cancel the licence.



- (2) In determining a hearing in relation to the application for the cancellation of a licence under section 74, the authority must, by notice in writing to the licensee:
  - (a) cancel the licence; or
  - (b) refuse to cancel the licence.
- (3) In determining a hearing in relation to a request made under section 82 or 83, the authority must, by notice in writing to the person or licensee who requested the hearing:
  - (a) affirm the direction or decision the subject of the hearing;
  - (b) revoke, set aside or vary the direction or decision; or
  - (c) substitute a direction or decision for the direction or decision.
- (4) The authority must specify the reasons for its decision in the notice.

### **Division 3            Appeals**

#### **88            Appeal against decision at hearing**

- (1) A person aggrieved by the outcome of a hearing may appeal to the Local Court against the decision on a question of law.
- (2) An appeal must be made within 28 days after the person receives the notice of the decision under section 87.

#### **89            Appeal proceedings may be closed to public**

The Local Court may order that the hearing of an appeal or part of an appeal is not to be heard in open court and, on the making of the order, persons who are not parties to the proceedings and not the parties' counsel, solicitors or representatives are, unless permitted to be present by the Court, excluded during the hearing of the appeal or the part of the appeal.

#### **90            Powers of Local Court**

In determining an appeal under this Part, the Local Court may in the manner it considers appropriate:

- (a) affirm or vary the decision appealed against;
- (b) quash the decision appealed against and substitute any decision that the authority may make under this Act;

- (c) remit the matter to the authority for further hearing or re-hearing; or
- (d) make any other order or the orders as to costs that it considers appropriate.

## **Part 9            Offences, penalties etc.**

### **Division 1        Offences**

#### **91            Unlawful use of totalisator**

A person must not:

- (a) establish a totalisator in the Territory;
- (b) operate a totalisator in the Territory; or
- (c) conduct totalisator wagering in the Territory,

unless authorised to do so by a licence.

Penalty:            In the case of a natural person – 500 penalty units or imprisonment for 2 years and, in addition, 5 penalty units for each day during which the offence continues after the first day on which it is committed.

In the case of a body corporate – 2500 penalty units and, in addition, 25 penalty units for each day during which the offence continues after the first day on which it is committed.

#### **92            Offences by persons employed by licensee or agent**

- (1) A person who is employed by or acting for and on behalf of a licensee or an agent must not:
  - (a) accept a bet or authorise or permit wagering that is not made in accordance with the Regulations and the Rules;
  - (b) accept a bet from, pay money to or deliver a totalisator ticket to a person who is under 18 years of age;
  - (c) allow another person who the person believes on reasonable grounds to be under the influence of liquor or a drug to enter and remain on premises where the licensee or agent is operating a totalisator or conducting totalisator wagering and to make a bet;

- (d) pay money to or deliver a totalisator ticket to a person who the person believes on reasonable grounds to be under the influence of liquor or a drug; or
- (e) pay a dividend or a refund or permit the payment of a dividend or a refund that is not in accordance with the Regulations or Rules.

Penalty:        50 penalty units.

- (2) If the licensee or agent referred to in subsection (1) is operating a totalisator or conducting totalisator wagering on licensed premises within the meaning of the *Liquor Act*, subsection (1)(c) or (d) does not apply unless the contravention or failure to comply of the person employed by or acting for and on behalf of a licensee or agent that constitutes the offence is a contravention of or failure to comply with that Act or a licence issued under Part III of that Act.
- (3) It is a defence to a prosecution for an offence against subsection (1)(b) that the defendant was shown an identification for the purposes of representing that the person was 18 years of age or more and the defendant had no reasonable grounds for doubting the validity of the identification.

### **93        Offences by infants**

A person who is under 18 years of age must not:

- (a) make a bet; or
- (b) cause another person to make a bet on his or her behalf.

Penalty:        20 penalty units.

### **94        Offences by other persons on premises of licensee**

A person must not:

- (a) consume liquor or a drug on the premises of a licensee or agent in contravention of a law in force in the Territory;
- (b) behave in a disorderly manner on the premises of a licensee;
- (c) make a bet for or on behalf of a person under 18 years of age; or
- (d) make a bet for or on behalf of a person who has been prohibited from wagering on a totalisator.

Penalty        50 penalty units.

**95 Licensee not to extend credit etc. for purpose of wagering**

A licensee, agent, operator or a licensee's or agent's employee must not lend money or any valuable thing or extend credit in any form to a person for the purpose of enabling the person or another person to wager.

**96 Advertising in relation to wagering**

A licensee must not be involved in any advertising relating to the conduct of wagering, whether published by written, visual, oral or electronic means, that is:

- (a) indecent or offensive; or
- (b) false or misleading in a material particular.

Penalty: 50 penalty units.

**97 Inducement to cheat**

- (1) A licensee or an agent, operator or employee of a licensee must not dishonestly induce a person to deliver, give or credit to the licensee, agent, operator or employee or another person any money, benefit, advantage, valuable consideration or security relating to wagering.
- (2) A person must not dishonestly induce a licensee or an agent, operator or employee of a licensee to deliver, give or credit to the person or another person any money, betting tickets, benefit, advantage, valuable consideration or security relating to wagering.

Penalty: 100 penalty units or imprisonment for 6 months.

**98 False statement etc.**

- (1) A person must not knowingly make a statement in connection with an application, investigation or inquiry or a report made under this Act that is false or misleading in a material particular or contains a material omission.

Penalty: 100 penalty units or imprisonment for 6 months.

- (2) A person must not, with intent to defraud:
  - (a) destroy, alter, mutilate or falsify a record or return;
  - (b) make or cause to be made a false, erroneous or misleading entry in a record or return; or
  - (c) omit or alter or cause to be omitted or altered an entry in a record or return;

that a licensee is required to keep under this Act.

Penalty:        200 penalty units or imprisonment for 12 months.

**99            Fraudulent use etc. of licence**

A person must not:

- (a)    forge or fraudulently alter or use a licence; or
- (b)    fraudulently allow a licence to be used by another person.

Penalty:        200 penalty units or imprisonment for 12 months.

**100          False representation as inspector etc.**

A person must not:

- (a)    falsely represent, by words or conduct, that he or she is an inspector; or
- (b)    forge or fraudulently alter or use an inspector's identity card.

Penalty:        200 penalty units or imprisonment for 12 months.

**101          Non-disclosure of information**

- (1) A person who, in the course of the administration of this Act, acquires information about a person's affairs or has custody of or access to a document about a person's affairs must not:

- (a)    make a record of the information;
- (b)    directly or indirectly communicate the information to another person; or
- (c)    produce the document or a copy of it to another person,

unless for the purposes of this Act, the Regulations or the Rules or to a prescribed person.

Penalty:        200 penalty units or imprisonment for 12 months.

- (2) Subsection (1) applies to a person who is or was a person holding an office under this Act or carrying out duties for the purposes of the administration of this Act.

## **Division 2            Procedure, evidentiary etc.**

### **102            Offences to be tried summarily**

An offence against this Act, the Regulations or the Rules is to be tried summarily.

### **103            Institution of proceedings**

- (1) Proceedings for an offence against this Act, the Regulations or the Rules may not be commenced without the consent in writing of the authority to do so.
- (2) In respect of the prosecution of a person for the alleged committal of an offence, the production in a court of a notice of consent purporting to be signed by the Chairperson or Director is sufficient evidence of the authority's consent to the institution of proceedings for the offence without proof of the signature of the Chairperson or Director or the fact that the person was the Chairperson or Director.

### **104            Limitation period**

A proceeding for an offence against this Act, the Regulations or the Rules is to be instituted within 3 years after the alleged commission of the offence.

### **105            Prosecution of licensee for actions of employee**

- (1) If the actions of a person employed by a licensee in respect of the licence constitute or allegedly constitute an offence against this Act, the licensee may be prosecuted for the offence as if the licensee had personally performed those actions.
- (2) The prosecution of a licensee under subsection (1) does not affect the liability in respect of the offence of the person employed who carried out the actions constituting the offence.
- (3) It is a defence to a prosecution of a licensee for an offence referred to in subsection (1) if the licensee did not authorise (either expressly or by implication) the actions of the person employed constituting the offence.

### **106            Offences by companies, clubs etc.**

- (1) If a club or a company or other body corporate commits or allegedly commits an offence against this Act, the Regulations or the Rules, each person who is an officer concerned in the management or director of the club, company or body corporate is to be taken to have committed or allegedly committed the offence to the same extent as the club, company or body corporate unless the person

satisfies the court that:

- (a) the commission or alleged commission of the offence occurred without the person's knowledge;
  - (b) the person was not in a position to influence the conduct of the body corporate in relation to the offence; or
  - (c) the person used all due diligence to prevent the commission or alleged commission of the offence by the club, company or body corporate.
- (2) In subsection (1), ***officer concerned in the management of a club, company or body corporate*** includes:
- (a) a secretary, executive officer or employee of the club, company or body corporate;
  - (b) a receiver or a receiver and manager of the property or part of the property of the club, company or body corporate;
  - (c) if the affairs of the club or body corporate are managed by its members or some of its members – a member who performs functions in connection with the management of the club or body corporate;
  - (d) an official manager or deputy official manager of the club, company or body corporate;
  - (e) a liquidator of the club, company or body corporate;
  - (f) a trustee or other person administering a compromise or arrangement made between the club, company or body corporate and its creditors; and
  - (h) an administrator of the club appointed under section 41 of the *Racing and Betting Act*.
- (3) A proceeding may be brought against a person and an order or finding of guilt may be made in respect of the person by virtue of subsection (1), whether or not the club, company or body corporate has been or is being proceeded against or an order or finding of guilt has been or will be made in respect of the club, company or body corporate.
- (4) Nothing in this section prejudices or affects the liability of a club or a company or other body corporate in relation to an offence committed against this Act, the Regulations or the Rules.

**107        Self-incrimination**

- (1) A person is not excused from answering a question or producing a document or thing when required to do so under this Act on the ground that the answer or production might tend to incriminate him or her or make him or her liable to a penalty.
- (2) The answer of or production by the person is not admissible against him or her in any civil or criminal proceedings other than proceedings for false or misleading information relating to the answer or production.

**Part 10            Restrictions relating to shareholding in  
licensees**

**Division 1        Preliminary**

**108        Interpretation**

- (1) In this Part, unless the contrary intention appears:

**associate** means:

- (a) an associate within the meaning of Division 2 of Part 1.2 of the Corporations Act 2001;
- (b) a prescribed person or a person who is a member of a prescribed class of persons; or
- (c) a person, not being a person referred to in paragraph (a) or (b), who the Minister declares, on the basis of information given or not given in compliance or non-compliance with a requirement notice, to be an associate under section 114(1).

**body corporate** means a body corporate, corporation or company, including:

- (a) a body corporate of any kind wherever formed or incorporated and whether formed or incorporated under the Corporations Act 2001 or any other law;
- (b) a society, association or other body, wherever formed, that under the law of the place where it was formed may sue or be sued or may hold property in the name of the secretary or some other officer of the body or in the name of any trustee or trustees; and
- (c) a society, association or other body, wherever formed, to which is applied with or without exceptions a law in force in the



place where it was formed relating to corporations or companies as if it were a corporation or company within the meaning of that law.

**notice** does not include a requirement notice.

**prohibited holder** means a person who the Minister declares under section 114(1)(g) has a prohibited shareholding interest.

**prohibited shareholding interest** means an interest that entitles a person to exercise or to influence or control the exercise of the right to vote attached to the number of voting shares in a licensee that together constitute more than the percentage of the total number of voting shares in the licensee prescribed under section 111(1).

**requirement notice** means a notice given under section 112(1) requiring a person to provide information to the Minister.

**transaction** means a transaction that:

- (a) is entered into or made in or outside the Territory;
- (b) relates to shares registered in or outside the Territory; or
- (c) is made and is enforceable under a law applying in the Territory or elsewhere.

**voting share** means a voting share within the meaning of section 9 of the Corporations Act 2001 to which a person is entitled under section 608 of the Corporations Act 2001 as if in section 608 of the Corporations Act 2001:

- (a) a reference to an associate were a reference to an associate as defined in this section; and
  - (b) a reference to a relevant interest were a reference to an interest in a share that a person would have under Division 5 of Part 1.1 of the Corporations Act 2001 if sections 33 and 35(c) of that Division were disregarded.
- (2) A reference in this Part to the Corporations Act 2001 is a reference to the Corporations Act 2001 as it would apply if references in it to a body corporate, corporation or company included references to a body corporate as defined in this section.
  - (3) A reference in this Part to the influence or control of the exercise of the right to vote attached to a voting share is a reference to influence or control that is direct or indirect or is or can be exercised as a result of, by means of, in breach of or by revocation of trusts or relevant agreements and practices (whether or not the trusts,

agreements or practices are enforceable).

**109        Exemption from application of Part**

- (1) The Regulations may exempt a person or class of persons from the application of this Part.
- (2) An exemption under subsection (1) may be subject to conditions.

**Division 2        Offence of having or acquiring prohibited shareholding interest**

**110        Person not to have prohibited shareholding interest**

- (1) A person must not have a prohibited shareholding interest.
- (2) A person must not act to acquire a prohibited shareholding interest.
- (3) If the shares of a person who is found guilty of an offence against subsection (1) or (2) are forfeited to the Territory under Division 3, the forfeiture of the shares is in addition to any penalty imposed on the person.

Penalty:        1,000 penalty units.

**Division 3        Shareholding restrictions**

**111        Prohibited shareholding interest**

- (1) A person has a prohibited shareholding interest in a licensee if the person has an interest that entitles the person to exercise or influence or control the exercise of the right to vote attached to the number of voting shares in the licensee that together constitute more than the prescribed percentage of the total number of voting shares in the licensee.
- (2) The percentage prescribed under subsection (1) is to be less than 20%.
- (3) The Regulations may:
  - (a) prescribe an interest or a class of interests that give rise to prohibited shareholding interest;
  - (b) prescribe the manner in which to establish whether a person has a prohibited shareholding interest;
  - (c) prescribe the percentage under subsection (1) in relation to a person or a class of persons; and

(d) exempt a person or a class of persons from compliance with subsection (1).

(4) An exemption under subsection (3)(d) may be subject to conditions.

**112 Power to require information relating to entitlement to shares in licensee**

(1) If the Minister believes on reasonable grounds that a person has, or is taking action to acquire, a prohibited shareholding interest in a licensee, the Minister may, by notice in writing given to that person or any other person who the Minister believes on reasonable grounds is entitled to shares in a licensee, require the person to give the authority the information relating to entitlement to or influence or control of voting shares in the licensee specified in the notice.

(2) The person who is given the requirement notice must give the information to the Minister within 7 days after receiving the notice or within the other lesser period specified in the notice.

(3) The requirement notice may require the person to whom it is given or, if the person is a body corporate, 2 directors or 2 executive or other officers of the body corporate to verify the information given to the Minister by statutory declaration.

**113 Compliance with requirement notice**

(1) A person who is given a requirement notice must comply with the notice.

Penalty: 100 penalty units.

(2) A person must not, in purporting to comply with a requirement notice given to the person, knowingly give information that is false or misleading in a material particular.

Penalty: 100 penalty units or imprisonment for 6 months.

**114 Declarations by Minister**

(1) If:

(a) on account of information given to the Minister in compliance with a requirement notice or on other grounds – the Minister considers that a person has a prohibited shareholding interest in a licensee;

(b) a person given a requirement notice does not comply with the notice; or

- (c) the Minister considers on reasonable grounds relating to information included in or omitted from a requirement notice that a person has, in purporting to comply with a requirement notice, given information that is false or misleading in a material particular,

the Minister may, by notice in writing to the licensee to whom the requirement notice relates, declare that:

- (d) the person is an associate of another person;
  - (e) another person is an associate of the person;
  - (f) the person or the other person referred to in paragraph (a) or (b) is entitled to exercise or to influence or control the exercise of the right to vote attached to the number of voting shares in the licensee specified in the notice; or
  - (g) the person or the other person referred to in paragraph (a) or (b) has a prohibited shareholding interest in a licensee.
- (2) On giving notice under subsection (1), the Minister must also give notice of his or her declaration under that subsection:
- (a) to the persons (other than the licensee) to whom the declaration refers; and
  - (b) in the case of a declaration under subsection (1)(g), if that person is not the person holding the voting shares to which the declaration relates – to the holder of those voting shares.
- (3) A declaration under this section takes effect:
- (a) if the notices under subsections (1) and (2) are given on the same day – on that day; or
  - (b) if the notices are given on different days – on the day the last of the notices is given.

### **115 Prohibited holder not to exercise etc. voting rights**

- (1) A prohibited holder must not exercise or influence or control or take action to exercise or influence or control the exercise of any of the voting rights that give rise to the prohibited holder's prohibited shareholding interest unless the Minister gives his or her approval to the prohibited holder to do so.
- (2) The Minister's approval may be subject to conditions.

- (3) If the Minister gives his or her approval subject to conditions, the prohibited holder must comply with the conditions.
- (4) A prohibited holder must comply with this section until the disposal or forfeiture pursuant to section 116 of voting shares the subject of the prohibited holder's prohibited shareholding interest.

Penalty: 1,000 penalty units or imprisonment for 6 months.

**116 Disposal and forfeiture of shares comprising prohibited shareholding interest**

- (1) If the Minister makes a declaration under section 114(1)(g), the Minister may by notice in writing require that the prohibited holder or, if the prohibited holder is not the person who holds the voting shares referred to in the declaration, that other person to dispose of:
  - (a) if, after the total number of the voting shares in respect of which the prohibited holder is entitled to exercise or to influence or control the exercise of voting rights were disposed of, the prohibited holder would continue to have a prohibited shareholding interest in the licensee – all those voting shares;
  - (b) if the Minister considers (for whatever reason) that it is appropriate for the person to dispose of a number of voting shares that is less than the number of the voting shares referred to in paragraph (a) or (c) – that number of shares; or
  - (c) in any other case – the number of voting shares that would need to be disposed of so that the prohibited holder would cease to have a prohibited shareholding interest in the licensee.
- (2) On the Minister giving notice requiring the disposal of voting shares under subsection (1), the Minister must also give notice of the requirement to dispose of voting shares to the licensee concerned.
- (3) The requirement to dispose of voting shares takes effect:
  - (a) if the notices under subsections (1) and (2) are given at the same time – on the giving of the notices; or
  - (b) if the notices are given at different times – when the last of the notices is given.
- (4) A person who is given a notice under subsection (1) is to be taken to have disposed of the voting shares required to be disposed of by the notice only if the person ceases to hold the voting shares and, in the case where the prohibited holder is not the holder of the

voting shares, the prohibited holder ceases to influence or control the exercise of the right to vote attached to the voting shares.

- (5) If a person who is given a notice under subsection (1) does not dispose of the voting shares within the period specified in the notice, the voting shares are, on the expiry of that period, forfeited to the Territory.

### **117 Further forfeiture**

- (1) If, because of a transaction entered into relating to voting shares in a licensee:
- (a) a person who did not have a prohibited shareholding interest in the licensee before the transaction was entered into has or would have on completion of the transaction a prohibited shareholding interest in the licensee; or
  - (b) a person who had a prohibited shareholding interest in the licensee before the transaction was entered into is or would be on completion of the transaction entitled to exercise or influence or control the exercise of the right to vote attached to a greater number of voting shares in the licensee than immediately before the completion of the transaction,

the Minister may, by notice given to the parties to the transaction, declare that the voting shares in the licensee that are the subject of the transaction are forfeited to the Territory.

- (2) Despite the forfeiture of voting shares under subsection (1), a transaction referred to in that subsection is not illegal or void because of this Part.
- (3) On the Minister giving notice of a declaration that voting shares are forfeited to the Territory, the Minister must also give notice of the declaration to the licensee concerned.
- (4) The forfeiture of voting shares takes effect:
- (a) if the notices under this section relating to the forfeiture are given at the same time – on the giving of the notices; or
  - (b) if the notices are given at different times – when the last of the notices is given.

### **118 Sale of forfeited shares**

- (1) The Minister must sell all voting shares forfeited to the Territory under section 116 or 117.

- (2) In selling the voting shares, the Minister is not affected by any restriction on the sale of voting shares contained in the licensee's constitution.
- (3) The proceeds from the sale of the voting shares are to be:
  - (a) first – applied in payment of the reasonable costs of the forfeiture and sale;
  - (b) secondly:
    - (i) if the voting shares were transferred as a result of a transaction referred to in section 116 and the transferor has not received the full consideration agreed on with the transferee – applied in payment to the transferor of the amount or value of the consideration not received by the transferor and to the transferee of any residue; or
    - (ii) in any other case – paid to the person from whom the voting shares were forfeited.

#### **119 Content of notices given under this Division**

A notice given under this Division must specify:

- (a) the reasons for the declaration or requirement to dispose of voting shares the subject of the notice;
- (b) that a person affected by the declaration or requirement may apply to the Supreme Court for a review of the declaration or requirement; and
- (c) the time within which the person may apply for a review.

### **Division 4 Review**

#### **120 Review by Supreme Court**

- (1) A person to whom a notice is given under Division 3 may apply to the Supreme Court to review the declaration or requirement to dispose of voting shares the subject of the notice.
- (2) The application must be made within 21 days after the notice is given to the person.
- (3) The period within which an application for review may be made may not be extended.

- (4) The following persons are the parties to the hearing of an application for review:
  - (a) the applicant;
  - (b) the Minister;
  - (c) if the applicant is not the licensee to which the notice the subject of the application relates – the licensee;
  - (d) any other person or persons to whom the notice was given by the Minister under the Division 3.
- (5) The Supreme Court may hear an application for review in the absence of a party referred to in subsection (4)(d).

#### **121 Review proceedings may be closed**

The Supreme Court may order the hearing of an application for review or part of an application for review is not to be heard in open court and, on the making of the order, persons who are not parties to the proceedings and not the parties' counsel, solicitors or representatives are, unless permitted to be present by the Court, excluded during the hearing of the application or the part of the application.

#### **122 Powers of Supreme Court**

- (1) In determining an application under this Division, the Supreme Court may:
  - (a) affirm the declaration or requirement the subject of the notice;
  - (b) if satisfied that proper grounds for making the declaration or imposing the requirement do not exist – vary or quash the declaration or requirement; or
  - (c) remit the matter to the Minister for re-consideration,and make any other order or orders as to costs as it considers appropriate.
- (2) An order under subsection (1) quashing or varying a declaration or requirement may have effect from the date that the notice making the declaration or imposing the requirement took effect or from a later date as the Supreme Court considers just and specifies in the order.



**123      Operation of Minister's declarations and requirements until review determined**

- (1) A notice making a declaration that is the subject of an application under section 119 continues to have effect during the conduct of the review.
- (2) The operation of a notice requiring a person to dispose of shares in a licensee or a notice declaring that shares in a licensee are forfeited to the Territory that is the subject of an application under section 119 ceases to have effect:
  - (a) if there is the applicant and one other party only – on the day the application is served on the other party;
  - (b) if there is the applicant and more than one other party and the application is served on the other parties on the same day – on that day; or
  - (c) if there is the applicant and more than one other party and the application is served on the other parties on different days – on the last day on which the application is served,

until and unless the Supreme Court makes an order affirming the requirement.

**Part 11                      Miscellaneous****124      Limitation of legal liability**

- (1) A person is not liable, and no civil or criminal proceeding lies against the person, for or in relation to any loss, damage or injury of any kind suffered by another person as a result of any of the following done in good faith:
  - (a) making a complaint under section 69;
  - (b) making a statement, providing any information, whether by answering a question or otherwise, or producing any document for the purposes of this Act, the Regulations or the Rules;
  - (c) making a report under this Act;
  - (d) providing a copy of a report to a person under this Act;

- (e) doing or omitting to do an act or thing by a person in his or her capacity as inspector in the exercise or purported exercise of a power or the performance or purported performance of a function under this Act of an inspector;
  - (f) doing or omitting to do any other act in the exercise or purported exercise of a power or the performance or purported performance of a function under this Act or otherwise for the purposes of this Act.
- (2) The onus of proving a lack of good faith is on the person alleging it.

### **125 Giving or lodgement of notice and applications**

A document that is required or permitted to be given, delivered, granted or issued to or lodged with a person under this Act may be given, delivered, granted, issued or lodged personally or by post.

### **126 Duplicate licence**

- (1) If, on the application of a licensee, the authority is satisfied that a licence or temporary licence has been destroyed, lost or stolen, the authority may issue a duplicate licence to the licensee.
- (2) An application for a duplicate licence is to be:
- (a) in a form approved by the authority; and
  - (b) accompanied by the prescribed fee.

### **127 Regulations**

- (1) The Administrator may make regulations, not inconsistent with this Act, prescribing matters that are:
- (a) required or permitted by this Act to be prescribed; or
  - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) Without limiting subsection (1), the Regulations may:
- (a) prescribe fees payable under the Act or the manner in which fees payable under this Act are to be calculated;
  - (b) prescribe the manner in which the authority may promote responsible wagering;

- (c) authorise a licensee or licensee's agent or operator to control the conduct of persons on the licensee's premises or the premises of the agent and to remove persons from the premises;
  - (d) prescribe procedures for the conduct of arbitration under Division 5 of Part 7 and provide for payment of the costs associated with the conduct of arbitration;
  - (e) prescribe procedures for the conduct of a hearing and provide for payment of the costs associated with the conduct of a hearing, including enabling the authority to make orders as to the payment of costs;
  - (f) prescribe circumstances when the authority may or must conduct a hearing;
  - (g) prescribe penalties not exceeding 100 penalty units for offences against the Regulations; and
  - (h) designate an offence against a regulation as a regulatory offence.
- (3) The Regulations may:
- (a) require a matter or thing referred to in the Regulations to be approved by or done to the satisfaction of the authority; and
  - (b) confer a discretion on the authority.

### **128 Acquisition to be on just terms**

- (1) If the application of a provision of this Act or an instrument of a legislative or administrative character made under this Act would, but for this section result in an acquisition of property otherwise than on just terms, the person from whom the property is acquired is entitled to receive just compensation for the acquisition.
- (2) A court of competent jurisdiction may determine the amount of the compensation or make the order that, in its opinion, is necessary to ensure that the acquisition is on just terms.

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**ENDNOTES**
**1 KEY**

Key to abbreviations

<b>amd = amended</b>	<b>od = order</b>
<b>app = appendix</b>	<b>om = omitted</b>
<b>bl = by-law</b>	<b>pt = Part</b>
<b>ch = Chapter</b>	<b>r = regulation/rule</b>
<b>cl = clause</b>	<b>rem = remainder</b>
<b>div = Division</b>	<b>renum = renumbered</b>
<b>exp = expires/expired</b>	<b>rep = repealed</b>
<b>f = forms</b>	<b>s = section</b>
<b>Gaz = Gazette</b>	<b>sch = Schedule</b>
<b>hdg = heading</b>	<b>sdiv = Subdivision</b>
<b>ins = inserted</b>	<b>SL = Subordinate Legislation</b>
<b>lt = long title</b>	<b>sub = substituted</b>
<b>nc = not commenced</b>	

**2 LIST OF LEGISLATION*****Totalisator Licensing and Regulation Act 2000 (Act No. 15, 2000)***

Assent date	6 June 2000
Commenced	12 June 2000 (s 2, s 2 <i>Sale of NT TAB Act 2000</i> (Act No. 14, 2000) and <i>Gaz S26</i> , 9 June 2000)

***Corporations Reform (Consequential Amendments NT) Act 2001 (Act No. 17, 2001)***

Assent date	29 June 2001
Commenced	15 July 2001 (s 2, s 2 <i>Corporations Act 2001</i> (Cth Act No. 50, 2001) and <i>Cth Gaz S285</i> , 13 July 2001)

***Statute Law Revision Act 2002 (Act No. 18, 2002)***

Assent date	7 June 2002
Commenced	7 June 2002

**3 LIST OF AMENDMENTS**

s 70	amd No. 18, 2002, s 6
s 76	amd No. 18, 2002, s 6
s 108	amd No. 17, 2001, s 21