

NORTHERN TERRITORY OF AUSTRALIA
RACING AND BETTING AMENDMENT ACT 2004

Act No. 26 of 2004

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SCHEDULE



NORTHERN TERRITORY OF AUSTRALIA

Act No. 26 of 2004

AN ACT

to amend the *Racing and Betting Act*

[Assented to 28 April 2004]
[Second reading 25 February 2004]

The Legislative Assembly of the Northern Territory enacts as follows:

1. Short title

This Act may be cited as the *Racing and Betting Amendment Act 2004*.

2. Commencement

This Act comes into operation on the date fixed by the Administrator by notice in the *Gazette*.

3. Principal Act

The *Racing and Betting Act* is in this Act referred to as the Principal Act.

4. New section

The Principal Act is amended by inserting after section 3 the following:

"3A. Objects

"The objects of this Act are –

- (a) to promote probity and integrity in racing and betting in the Territory;

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- (b) to maintain the probity and integrity of persons engaged in racing and betting in the Territory;
- (c) to promote fairness, integrity and efficiency in the operations of persons engaged in racing and betting in the Territory; and
- (d) to reduce any adverse social impact of betting."

5. Definitions

Section 4 of the Principal Act is amended –

- (a) by omitting the definition of "bookmaker's clerk";
- (b) by inserting after the definition of "investment" the following:
" 'key employee' means a person licensed under section 103;" ; and
- (c) by omitting "permit" from the definition of "registered bookmaker" and substituting "licence".

6. Functions of Commission

Section 17 of the Principal Act is amended –

- (a) by omitting "The functions" and substituting "(1) The functions";
- (b) by omitting from paragraph (e) "bookmaker's clerk" and substituting "key employee"; and
- (c) by adding at the end the following:

"(2) In performing its functions, the Commission must have regard to the following principles:

- (a) minimum regulatory intervention by government;
- (b) maximum co-operation between industry and government;
- (c) performance-based risk management controls;
- (d) proactive and competitive industry positioning;
- (e) long term viability of the racing industry;
- (f) a balanced approach to problem betting."

7. Licences and permits

Section 24 of the Principal Act is amended –

- (a) by omitting from subsection (1) "section 90" and substituting "section 90 or 102";
- (b) by omitting subsection (2) and substituting the following:

"(2) A licence granted under section 90 or 102 –

- (a) remains in force for the period determined by the Commission and specified in the licence;
- (b) may be renewed; and
- (c) is not transferable."; and

- (c) by adding at the end the following:

"(5) The holder of a licence granted under section 90 or 102 must, while the licence remains in force, pay to the Commission the prescribed annual licence fee on or before each anniversary of the date on which the licence was granted.

"(6) The granting of a licence or permit is not a guarantee of the financial viability of the person to whom the licence or permit is granted."

8. Repeal and substitution

Sections 25, 26, 27, 29 and 30 of the Principal Act are repealed and the following substituted:

"25. Criminal history checks

"(1) If –

- (a) a natural person applies for a licence or permit or applies to renew a licence or permit – the person;
- (b) the partners in a partnership apply for a licence or permit or apply to renew a licence or permit – each partner in the partnership; or
- (c) a corporation applies for a licence or permit or applies to renew a licence or permit – each officer of the corporation,

must attend at a police station and provide to a member of the Police Force the prescribed information together with a signed authority, in the approved form, permitting the Commissioner of Police to release to the Commission details of the person's criminal history.

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"(2) As soon as reasonably practicable after receiving a signed authority under subsection (1), the Commissioner of Police must give the Commission –

- (a) a written report of the criminal history of the person who signed the authority despite that part of the criminal history is a spent conviction within the meaning of the *Criminal Records (Spent Convictions) Act*; and
- (b) any other evidence that may assist the Commission to determine the application.

"(3) Subsection (2)(a) applies to the criminal history –

- (a) that is in the Commissioner of Police's possession; or
- (b) to which the Commissioner of Police ordinarily has access through arrangements with the police service of the Commonwealth or a State or another Territory of the Commonwealth.

"(4) The Commissioner of Police may approve a form for the purposes of subsection (1).

"(5) In subsection (1) –

'officer', of a corporation, means –

- (a) a director, secretary or executive officer of the corporation; or
- (b) a person who can control or influence the conduct of the corporation's affairs including, for example, a person on whose directions, advice or instructions the corporation's directors usually act."

9. Person to whom licences or permits under this Part may not be granted

Section 71 of the Principal Act is amended by adding at the end the following:

"(3) A licence or permit under this Part must not be granted to a person who is not a fit and proper person.

"(4) Without limiting subsection (3), a person is not a fit and proper person if he or she –

- (a) within 10 years before the date of the application for the licence or permit –
 - (i) has been found guilty of an offence against this Act, the *Gaming Control Act*, *Gaming Machine Act* or *Unlawful Betting Act*; or
 - (ii) has been convicted of an offence prescribed as a disqualifying offence under the Regulations; or
- (b) does not satisfy the probity requirements under this Act."

10. Offences by bookmakers

Section 79 of the Principal Act is amended by omitting paragraph (d).

11. Suspension or cancellation of licence or permit

Section 80 of the Principal Act is amended by inserting after subsection (1) the following:

"(1A) The Commission –

- (a) may suspend a licence granted under this Part to a bookmaker if the bookmaker fails to pay the annual licence fee within 30 days after the date on which the fee is payable; or
- (b) may cancel a licence granted under this Part to a bookmaker if the bookmaker fails to pay the annual licence fee within 90 days after the date on which the fee is payable."

12. Commission may grant licence

Section 90 of the Principal Act is amended –

- (a) by inserting after subsection (2) the following:

"(2A) In determining whether to grant or refuse to grant a licence under this section, the Commission must have regard to the following:

- (a) whether the applicant is of good repute, having regard to character, honesty and integrity;
- (b) whether the applicant is of sound and stable financial background;
- (c) in respect of a corporation – whether it has or has arranged a satisfactory ownership, trust or corporate structure;

- (d) whether the applicant has or is able to obtain financial resources that are adequate to ensure the financial viability of the business proposed to be conducted and to obtain the services of persons who have sufficient experience in the management and operation of the business;
 - (e) whether the applicant has sufficient business ability to establish and maintain the business proposed to be conducted;
 - (f) whether the applicant or any person to be involved in the management or operation of the business proposed to be conducted has any association with any person, body or association who or which, in the opinion of the Commission, is not of good repute having regard to character, honesty and integrity or has undesirable or unsatisfactory financial resources;
 - (g) whether each director, partner, trustee, executive officer and secretary and any other officer or person determined by the Commission to be associated or connected with the ownership, administration or management of the operations or business of the applicant is a suitable person to act in that capacity."; and
- (b) by omitting subsection (4).

13. New section

The Principal Act is amended by inserting after section 90 the following:

"90A. Costs of investigation of application

"(1) Where the Commission carries out an investigation or inquiry under section 90, the Commission may require the applicant for the licence to meet the cost of the investigation or inquiry.

"(2) The Commission may require the applicant to make specified payments towards the cost of the investigation or inquiry before the investigation or inquiry begins and during the course of the investigation or inquiry.

"(3) If a payment is not made as required by the Commission, the Commission may discontinue the investigation or inquiry.

"(4) At the end of the investigation or inquiry, the Commission must certify the cost of the investigation or inquiry and any unpaid balance of that cost may be recovered from the applicant as a debt due and payable to the Territory.

"(5) In proceedings for recovery of the cost (or the balance of the cost) of an investigation or inquiry, the Commission's certificate is conclusive evidence of the cost."

14. Renewal of licences

Section 91 of the Principal Act is amended –

- (a) by inserting after subsection (1) the following:

"(1A) Section 90(2A) applies to an application for the renewal of a licence under this section as if the application were for the grant of the licence."; and

- (b) by adding at the end the following:

"(3) Subsection (2)(b) does not permit the Commission to impose a condition that varies the effect of a prescribed condition to which the licence is subject.".

15. Variation etc. of licences

Section 92 of the Principal Act is amended by adding at the end the following:

"(6) This section does not permit the Commission to vary the effect of a prescribed condition to which the licence is subject.".

16. Repeal

Sections 94, 95, 98 and 101 of the Principal Act are repealed.

17. Registered bookmakers

Section 102 of the Principal Act is amended –

- (a) by omitting "permit" (all references) and substituting "licence";
- (b) by omitting from subsection (1)(b) "licensed paceway; or" and substituting "licensed paceway";
- (c) by omitting from subsection (1)(c) "greyhound-racing ground." and substituting "greyhound-racing ground; or";
- (d) by inserting after subsection (1)(c) the following:
- "(d) at a prescribed event."; and
- (e) by inserting after subsection (3) the following:

"(3A) In determining whether to grant or refuse to grant a licence applied for under subsection (1), the Commission may carry out, or cause to be carried out, any investigations and inquiries that the Commission considers necessary.

"(3B) In determining whether to grant or refuse to grant a licence applied for under subsection (1), the Commission must have regard to the following:

- (a) whether the applicant is of good repute, having regard to character, honesty and integrity;
- (b) whether the applicant is of sound and stable financial background;
- (c) in respect of a corporation – whether it has or has arranged a satisfactory ownership, trust or corporate structure;
- (d) whether the applicant has or is able to obtain financial resources that are adequate to ensure the financial viability of the business proposed to be conducted and to obtain the services of persons who have sufficient experience in the management and operation of the business;
- (e) whether the applicant has sufficient business ability to establish and maintain the business proposed to be conducted;
- (f) whether the applicant or any person to be involved in the management or operation of the business proposed to be conducted has any association with any person, body or association who or which, in the opinion of the Commission, is not of good repute having regard to character, honesty and integrity or has undesirable or unsatisfactory financial resources;
- (g) whether each director, partner, trustee, executive officer and secretary and any other officer or person determined by the Commission to be associated or connected with the ownership, administration or management of the operations or business of the applicant is a suitable person to act in that capacity."

18. New sections

The Principal Act is amended by inserting after section 102 the following:

"102A. Costs of investigation of application

"(1) Where the Commission carries out an investigation or inquiry under section 102, the Commission may require the applicant for the licence to meet the cost of the investigation or inquiry.

"(2) The Commission may require the applicant to make specified payments towards the cost of the investigation or inquiry before the investigation or inquiry begins and during the course of the investigation or inquiry.

"(3) If a payment is not made as required by the Commission, the Commission may discontinue the investigation or inquiry.

"(4) At the end of the investigation or inquiry, the Commission must certify the cost of the investigation or inquiry and any unpaid balance of that cost may be recovered from the applicant as a debt due and payable to the Territory.

"(5) In proceedings for recovery of the cost (or the balance of the cost) of an investigation or inquiry, the Commission's certificate is conclusive evidence of the cost.

"102B. Renewal of licences

"(1) On application in the approved form by a registered bookmaker and payment of the prescribed fee, the Commission may renew a licence granted under this Division.

"(2) The renewal of a licence under this Division is –

- (a) subject to the same conditions as the original licence; or
- (b) if the Commission thinks fit – subject to different conditions.

"(3) Subsection (2)(b) does not permit the Commission to impose a condition that varies the effect of a prescribed condition to which the licence is subject."

19. Licensing of key employees

Section 103 of the Principal Act is amended –

- (a) by inserting before subsection (1) the following:

"(1A) A bookmaker must not employ or engage a person at a racing venue or on licensed premises in a position or to perform a function –

- (a) where the person controls or exercises significant influence over the operations conducted under the bookmaker's licence; or
- (b) that is designated a key position or key function,

unless the person is holder of a licence granted under this section.

Penalty: \$2 000.

"(1B) The Commission may, by notice to a bookmaker, designate a position to be a key position or a function to be a key function.";

- (b) by omitting from subsections (1), (4) and (5) "bookmaker's clerk" and substituting "key employee";
- (c) by omitting subsection (3); and

- (d) by omitting from subsections (4) and (5) "bookmaker's clerk's" and substituting "key employee's".

20. Remote clerks

Section 104 of the Principal Act is amended by omitting from subsection (1) "bookmaker's clerk" and substituting "key employee".

21. New Part

The Principal Act is amended by inserting after Part V the following:

"PART VAA – APPEALS FROM DECISIONS OF COMMISSION

"119A. Right to appeal to Local Court

"(1) An applicant for a licence may appeal against the Commission's decision to refuse to grant the licence.

"(2) The holder of a licence may appeal against a decision of the Commission –

- (a) to suspend or cancel the licence; or
- (b) to refuse to renew the licence.

"(3) Despite that an applicant is not entitled to be granted a licence by virtue of section 71(3), he or she may appeal against a refusal to grant the licence on the grounds that there are adequate grounds for the Local Court to exercise its power under section 119C to grant the licence.

"(4) Except in respect of an appeal referred to in subsection (3), an appeal may be made only on a question of law.

"(5) The *Local Court Act* and the rules made under that Act apply to an appeal under this Part.

"119B. Stay of operation of decisions

"(1) The Local Court may grant a stay of a decision appealed against for the purpose of securing the effectiveness of the appeal.

"(2) A stay –

- (a) may be granted on conditions that the Local Court considers appropriate;
- (b) has effect for the period specified by the Local Court; and
- (c) may be revoked or amended by the Local Court.

"(3) The period of a stay specified by the Local Court cannot extend past the time when the Court decides the appeal.

"(4) An appeal against a decision does not affect the operation or carrying out of the decision unless the decision is stayed.

"119C. Powers of Local Court on appeal

"(1) In deciding an appeal, the Local Court may –

- (a) confirm the decision appealed against;
- (b) set aside the decision and substitute another decision; or
- (c) set aside the decision and return the matter to the Commission with directions that the Local Court considers appropriate.

"(2) In substituting another decision, the Local Court has the same powers as the Commission.

"(3) If the Local Court substitutes another decision, the substituted decision is taken to be the Commission's decision.

"(4) Despite that an appellant is not entitled to be granted a particular licence by virtue of section 71(3), the Local Court may, in substituting another decision, decide to grant the licence if it is satisfied that the appellant is, on the balance of probabilities, a suitable person to be granted the licence.

"(5) The Local Court must not make an order for costs against the Commission."

22. New section

The Principal Act is amended by inserting after section 148 the following:

"148A. Codes of practices

"(1) For the purpose of providing practical guidance to bookmakers on any matter relating to this Act, the Commission may, by notice in the *Gazette*, approve a code of practice.

"(2) A code of practice may consist of a code, standard, rule, specification or provision relating to matters in this Act formulated, prepared or adopted by the Commission and may apply, incorporate or refer to a document formulated or published by a body or authority as in force at the time the code of practice is approved or as amended, formulated or published from time to time.

"(3) A notice under subsection (1) must indicate where a copy of the code of practice to which it relates, and all documents incorporated or referred to

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in the code, may be inspected by members of the public and the times during which it may be inspected.

"(4) A bookmaker must not contravene or fail to comply with a code of practice approved under this section.

Penalty: \$2 000."

23. Further amendments

The Principal Act is amended as specified in the Schedule.

SCHEDULE

Section 23

Provision	Amendment	
	omit	substitute
Section 4		
– definition of "remote clerk"	bookmaker's clerk	key employee
Section 44(2)(e)	bookmaker's clerk	key employee
Section 52(2)(d)	bookmaker's clerk	key employee
Section 57(2)(d)	bookmaker's clerk	key employee
Section 70(1A) and (3)	bookmaker's clerk's	key employee's
Section 78(3)	bookmaker's clerk	key employee
Heading to Part IV, Division 4	<i>Bookmakers' Clerks</i>	<i>Key employees</i>
Section 105	bookmaker's clerk (all references)	key employee