

Serial 196
Totalisator Licensing and Regulation Act 1999
Mr Baldwin

**A BILL
for
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

4

C

C

C

NORTHERN TERRITORY OF AUSTRALIA
TOTALISATOR LICENSING AND REGULATION ACT 1999

No. of 1999

TABLE OF PROVISIONS

Section

PART 1 – PRELIMINARY

1. Short title
2. Commencement
3. Act binds Crown
4. Interpretation

PART 2 – AUTHORITY

Division 1 – Establishment, powers and functions of authority

5. Authority
6. Functions of authority
7. Operation of totalisator by authority

Division 2 – Miscellaneous

8. Delegation
9. Proceedings of authority to be open to public
10. Disclosure of interest

PART 3 – LICENSING

Division 1 – Application and grant of licence

11. General principles relating to grant of licence
12. Application for licence
13. Additional information etc.
14. Refusal to consider or withdrawal of application
15. Authority may investigate applicant
16. Inquiry by Commissioner of Police
17. Cost of investigations etc.
18. Determination of application and grant or refusal of licence
19. Exclusivity
20. Term and renewal of licence

21. Renewal of licence

Division 2 – Form and terms and conditions of licence etc.

22. Form of licence
23. Duration of licence
24. Terms and conditions of licence

Division 3 – Variation, transfer and surrender of licence

25. Variation of licence
26. Transfer of licence
27. Surrender of licence

PART 4 – RIGHTS AND OBLIGATIONS OF LICENSEES

Division 1 – Calculation and payment of wagering tax

28. Definitions
29. Application of *Taxation (Administration) Act*
30. Liability to pay wagering tax
31. Payment of tax
32. Monthly returns
33. Finding of guilt for offence relating to payment of wagering tax does not exempt licensee from payment of tax

Division 2 – Audit

34. Auditor
35. Audit of operations of licensee
36. Powers of auditor
37. Cost of audit

Division 3 – Other

38. Operators
39. Agencies
40. Licensee may make agreements for conduct of operations under licensee's licence
41. Records

PART 5 – RULES

42. Power to make rules
43. Rules not required to be numbered
44. Publication of rules etc. applied, adopted or incorporated
45. Compliance with rules

PART 6 – TOTALISATOR INSPECTORS

Division 1 – Appointment, powers and functions of inspectors

- 46. Appointment
- 47. Suitability of persons to be appointed inspectors
- 48. Terms and conditions of appointment
- 49. Identity cards
- 50. Inspectors subject to direction of authority
- 51. Functions of inspectors
- 52. Powers of inspectors
- 53. Consent to enter premises
- 54. Search warrants
- 55. Inspector to issue receipt for thing seized
- 56. Person to comply with request of inspector etc.
- 57. Restriction on employment of persons who were inspectors

Division 2 – Detention and return of machinery etc. seized

- 58. Delivery of thing seized to Director
- 59. Detention of thing seized
- 60. Return of thing seized
- 61. Return of thing seized pending prosecution
- 62. Forfeiture of thing seized
- 63. Disposal of thing

PART 7 – CONTROL OF CONDUCT OF LICENSEES

Division 1 – Interpretation

- 64. Reference to licensees who are clubs, companies or other body corporates

Division 2 – Complaints

- 65. Making of complaint
- 66. Consideration and decision of authority

Division 3 – Directions

- 67. Authority may give directions

Division 4 – Suspension, variation and cancellation of licence

- 68. Suspension or variation of licence in certain circumstances
- 69. Application for cancellation of licence
- 70. Consideration of application by authority

Division 5 – Dispute resolution

- 71. Dispute between authority and licensee
- 72. Arbitration
- 73. Arbitration proceedings not admissible
- 74. Determination is final

Division 6 – Temporary licences

- 75. Grant of temporary licence
- 76. Investigation of person who may be granted temporary licence; licensee may be granted temporary licence
- 77. Term of temporary licence

PART 8 – HEARINGS AND APPEALS

Division 1 – General

- 78. Person who makes a complaint may request hearing
- 79. Licensee may request hearing
- 80. Time for making and form of request for hearing
- 81. Operation of decision etc. until hearing or appeal determined

Division 2 – Hearing

- 82. Conduct of hearing
- 83. Decision of authority

Division 3 – Appeals

- 84. Appeal against decision at hearing
- 85. Appeal proceedings may be closed to public
- 86. Powers of Local Court

PART 9 – OFFENCES, PENALTIES ETC.

Division 1 – Offences

- 87. Unlawful use of totalisator
- 88. Offences by persons employed by licensee or agent
- 89. Offences by infants
- 90. Offences by other persons on premises of licensee
- 91. Licensee not to extend credit etc. for purpose of wagering
- 92. Advertising in relation to wagering
- 93. Inducement to cheat
- 94. Person not to hold a controlling interest in licensee
- 95. False statement etc.
- 96. Fraudulent use etc. of licence

- 97. False representation as inspector etc.
- 98. Non-disclosure of information

Division 2 – Procedure, Evidentiary etc.

- 99. Offences to be tried summarily
- 100. Institution of proceedings
- 101. Limitation period
- 102. Prosecution of licensee for actions of employee
- 103. Offences by companies, clubs etc.
- 104. Self-incrimination

PART 10 – MISCELLANEOUS

- 105. Protection of inspectors
- 106. Giving or lodgement of notice and applications
- 107. Duplicate licence
- 108. Regulations
- 109. Acquisition to be on just terms

C.

C.

C.

C.



NORTHERN TERRITORY OF AUSTRALIA

No. of 1999

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

[Assented to 1999]
[Second reading 1999]

The Legislative Assembly of the Northern Territory enacts as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Totalisator Licensing and Regulation Act 1999*.

2. Commencement

This Act comes into operation on the commencement of the *Sale of NT TAB Act 1999*.

3. Interpretation

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

"agent" means the person with whom a licensee enters into an arrangement referred to in section 39 to establish an agency for the conduct of totalisator wagering;

Totalisator Licensing and Regulation Act 1999

"agency" means the conduct of totalisator wagering under a licensee's licence by the licensee's agent in a building or part of a building occupied by the agent for and on behalf of the licensee;

"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;

Totalisator Licensing and Regulation Act 1999

- (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;

"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*;

"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;

"hearing" means a hearing conducted in accordance with Part 8;

"inspector" means a totalisator inspector appointed by or under section 46;

"licence" means a totalisator licence to establish a totalisator, operate a totalisator or conduct totalisator wagering granted or renewed under section 18, and includes a licence that is varied under section 25;

"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*

Totalisator Licensing and Regulation Act 1999

Territory Licensing Commission Act (including the Chairperson);

"operator" means a person employed by a licensee under section 38 to manage the operations of the licensee conducted on a premises of a licensee;

"premises of a licensee" means a building or the part of a building occupied by the licensee where the licensee operates a totalisator or conducts totalisator wagering;

"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 42;

"temporary licence" means a licence granted under section 75(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 a prescribed event or activity or a prescribed class of event or activity;

"wagering tax" means the tax payable each month by a licensee under section 30.

(2) A reference in this Act to a person holding a controlling interest in a body corporate is a reference to a person who, whether alone or in concert with another person, is in a position to control 5% or more of the voting power in the body corporate or holds interests in of 5% or more of the issued shares in the body corporate.

(3) 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 other events or activities (as prescribed) 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) to promote responsible totalisator wagering in the Territory;
and
- (e) 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.

Totalisator Licensing and Regulation Act 1999

(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 person becoming a member, he or she must disclose to the Minister –

- (a) 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;
- (b) the name and a description of any partnership of which he or she is a partner or by whom he or she is employed;
- (c) any other business association or financial interest he or she has in relation to a specified company or other body or a specified person that is likely to give rise to a conflict with his or her duties as member; and
- (d) 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*.

PART 3 – LICENSING

Division 1 – Application and grant of licence

11. 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 a prescribed event or activity or prescribed class of event 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.

(3) A person may hold more than one licence, including a temporary licence.

12. 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.

13. 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 15.

(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.

14. 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 12 or 13.

(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.

15. 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 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;

Totalisator Licensing and Regulation Act 1999

- (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.

16. 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

Totalisator Licensing and Regulation Act 1999

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 in relation to the character of the person 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.

17. 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 15 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.

18. 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.

19. Exclusivity

The authority may grant a licence that authorises a person to operate a totalisator or conduct totalisator wagering in the Territory to the exclusion of any other person for the term of the licence or other shorter period specified in the licence.

20. 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 21, a licence referred to in subsection (1)(b) may be renewed.

21. 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 12 months 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.

22. 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.

23. 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.

24. 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;
 - (e) must comply with the licence, this Act, the Regulations and the Rules; and

Totalisator Licensing and Regulation Act 1999

- (f) 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

25. Variation of licence

- (1) Subject to this section, 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,

Totalisator Licensing and Regulation Act 1999

the authority may vary the licence, whether or not as proposed in the notice under subsection (2).

(4) 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.

(5) 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.

(6) A licensee must comply with his or her licence as varied under this section.

(7) Subsections (2), (3), (4) and (5) do not apply if the variation is for a formal or clerical reason that does not alter the effect of the licence.

26. 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.

27. 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) 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) any other liability incurred by or obligation imposed on the person as licensee; and
- (d) 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), the person who surrenders a licence must give to the authority a list of the persons who have not been paid dividends or other money owing to them or who have not claimed prizes they have won.

PART 4 – RIGHTS AND OBLIGATIONS OF LICENSEES

Division 1 – Calculation and payment of wagering tax

28. Definitions

In this Division –

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

"wagering revenue" means a licensee's gross income from wagering (including unpaid fractions) less dividends paid out.

29. Application of *Taxation (Administration) Act*

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.

30. Liability to pay wagering tax

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 an amount equal to the prescribed percent of the licensee's wagering revenue for each month.

31. 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 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.

32. Monthly returns

(1) A licensee must each month lodge with the Commissioner of Taxes a return in respect of the licensee's wagering revenue 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 wagering revenue and the amount of wagering tax payable by the licensee for that month;

Totalisator Licensing and Regulation Act 1999

- (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.

33. 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

34. 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.

35. Audit of operations of licensee

(1) The auditor must audit the accounts, books and other records 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.

36. 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 35.

Penalty: 100 penalty units.

37. 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 35.

(2) An amount payable under subsection (1) is recoverable as a debt due and payable by the licensee to the authority.

Division 3 – Other

38. 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.

Totalisator Licensing and Regulation Act 1999

(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 15 and 16 it considers appropriate to determine whether a person is suitable to be appointed an operator and sections 15 and 16 apply with the necessary changes.

39. 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.

(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.

40. 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.

Totalisator Licensing and Regulation Act 1999

(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.

41. 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 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.

PART 5 – RULES

42. 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 of accounts with a licensee by persons who make bets with the licensee from which amounts are withdrawn for the purpose of making bets and in which dividends in respect of bets won are deposited;
- (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) prescribe the manner for distributing and paying dividends on bets placed with a licensee, including the arrangements where there are no winning bets on a race and the payments of dividends on bets made by post or an electronic form;
- (e) provide for the deduction of commission;

Totalisator Licensing and Regulation Act 1999

- (f) provide for the establishment of a dividend equalisation account by a licensee and the amounts to be paid into or credited to the account;
 - (g) prescribe penalties not exceeding 100 penalty units for offences against the Rules; and
 - (h) designate an offence against a rule as a regulatory offence.
- (3) The authority may make a rule that —
- (a) 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 other Territory of the Commonwealth; or
 - (b) 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).

43. Rules not required to be numbered

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

44. 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 42(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.

45. Compliance with rules

A licensee must comply with the rules.

PART 6 – TOTALISATOR INSPECTORS

Division 1 – Appointment, powers and functions of inspectors

46. 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.

47. Suitability of persons to be appointed inspectors

(1) The authority may not appoint a person to be an inspector under section 46(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.

48. Terms and conditions of appointment

(1) An inspector appointed under section 46(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.

49. Identity cards

(1) The authority must issue to each inspector an identity card.

Totalisator Licensing and Regulation Act 1999

(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.

50. 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.

51. 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.

52. Powers of inspectors

(1) An inspector may carry out inspections to ascertain whether licensees are conducting their operations in accordance with their licences, this Act, the Regulations or the Rules or totalisators are being operated in accordance with the Rules.

Totalisator Licensing and Regulation Act 1999

(2) For the purposes of carrying out an inspection, an inspector may –

- (a) at any time enter the premises of a licensee or any other place where the licensee's business under the licence is conducted, whether in or outside 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.

53. Consent to enter premises

(1) Before an inspector may enter and inspect premises or a place under section 52, 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 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 54; or
- (c) entry and inspection are authorised by a search warrant issued under section 54.

(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.

54. Search warrants

(1) An inspector wishing to enter and inspect premises or a place under section 52 may apply to a Justice for a search warrant if —

- (a) entry has been refused, opposed, prevented or otherwise cannot be obtained; or

Totalisator Licensing and Regulation Act 1999

- (b) the giving of notice under section 53 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 52 for the purpose specified in the warrant,

with the force that is necessary and reasonable.

55. 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 52 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 this 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.

56. 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 52;
- (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.

57. 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

58. Delivery of thing seized to Director

An inspector who seizes and removes machinery, a device or thing under section 52 must, as soon as reasonably possible after doing so, deliver it to the Director.

59. 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 58 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.

60. 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 have ended,

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.

61. Return of thing seized pending prosecution

(1) Despite section 60, 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.

62. 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.

63. 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

64. Reference to licensees who are clubs, companies or other body corporates

A reference in this Part to a licensee that is a club, company or other body corporate includes a reference to 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

65. Making of complaint

(1) A person may make a complaint regarding the conduct of a licensee.

(2) A complaint is to be –

(a) in writing 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 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.

66. Consideration and decision of authority

(1) If the authority receives a complaint under section 65, the authority –

(a) must consider the complaint, taking into account any written reply of the licensee and report of the Director regarding the complaint;

Totalisator Licensing and Regulation Act 1999

- (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 recommend arbitration between the parties;
 - (d) to reprimand the licensee;
 - (e) to fine the licensee an amount not exceeding the prescribed amount; or
 - (f) to conduct a hearing in relation to the complaint.
- (3) 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.
- (4) A fine imposed under subsection (2) is recoverable as a debt due and payable by the licensee to the authority.

Division 3 – Directions

67. 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

68. Suspension or variation of licence in certain circumstances

- (1) If—
 - (a) a complaint is made under section 65 or an application to cancel a licence is made under section 69 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;

Totalisator Licensing and Regulation Act 1999

- (b) the authority has issued a direction to a licensee under section 67 and is of the opinion that suspension of his or her 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).

69. 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;

Totalisator Licensing and Regulation Act 1999

- (c) has contravened or failed to comply with a direction given under section 67; 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.

70. Consideration of application by authority

The authority, after considering an application made under section 69, must –

- (a) if the authority is of the opinion that the facts set out in the statement would not, if proven establish the grounds on which the application is made – dismiss the application; or
- (b) conduct a hearing in relation to the application.

Division 5 – Dispute resolution

71. Dispute between authority and licensee

(1) In the event of a dispute arising between the authority and a licensee as to the construction of a term or condition of the licensee's 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) The dispute is to be resolved or determined in accordance with the requirement of the authority or the licensee under subsection (1).

72. 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 of the Northern Territory constituted under section 7 of the *Legal Practitioners Act*.

73. Arbitration proceedings not admissible

Anything said, done, written in the course of arbitration proceedings under this Division is not to be taken into account in any subsequent proceedings under this Act that relate to the dispute arbitrated.

74. Determination is final

The resolution or determination of a dispute under this Division by arbitration or the Minister 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

75. 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.

76. 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 15 and 16 apply with the necessary changes.

- (2) The authority may grant a temporary licence to a licensee.

77. 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

78. Person who makes a complaint may request hearing

A person who makes a complaint under section 65 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.

79. Licensee may request hearing

(1) Subject to subsection (2), if the authority gives a direction under section 67 to a licensee or decides to suspend or vary a licence under section 25 or 68, 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 68(1)(a).

80. 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 78 or 79 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.

81. Operation of decision etc. until hearing or appeal determined

(1) A direction or decision referred to in section 78 or a decision referred to in section 79(1) that is the subject of a hearing continues to have effect until the determination of the hearing.

(2) A decision of the authority that is the subject of an appeal under Division 3 continues to have effect until the determination of the appeal.

Division 2 – Hearing

82. 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.

(3) Subject to this Act and the Regulations, the procedure at a hearing is as the authority determines.

83. Decision of authority

(1) In determining a hearing in relation to a complaint under section 66(2)(f), the authority must, by notice in writing to the person who requested the hearing and to the licensee concerned –

- (a) affirm, set aside or vary the decision of the authority the subject of the hearing;
- (b) vary a condition of, or impose a condition on the licence the subject of the hearing;
- (c) issue a direction to the licensee under section 67; or
- (d) suspend or cancel the licence.

Totalisator Licensing and Regulation Act 1999

(2) In determining a hearing in relation to the application for the cancellation of a licence under section 70, 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 78 or 79, 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

84. 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 83.

85. 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 persons who are not parties to the proceedings or the parties' counsel, solicitors or representatives are, except as otherwise permitted by the Court, excluded during the hearing of the appeal.

86. 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 or order appealed against;
- (b) quash the decision appealed against and substitute any decision that the authority may make under this Act;

Totalisator Licensing and Regulation Act 1999

- (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

87. 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.

88. Offences by persons employed by licensee or agent

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;

Totalisator Licensing and Regulation Act 1999

- (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.

89. 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.

90. 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;
- (b) behave in a disorderly manner on the premises of a licensee;
- (c) make a bet for or on behalf of a person who 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.

91. Licensee not to extend credit etc. for purpose of wagering

(1) A licensee must not lend money or any valuable thing or extend credit in any form for the purpose of enabling a person to wager.

(2) A person must not accept a bet on a totalisator if the bet is paid for or is paid for in part by a transaction involving a credit card.

Penalty: 100 penalty units or imprisonment for 6 months.

92. 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.

93. 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.

Penalty: 100 penalty units or imprisonment for 6 months.

(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.

94. Person not to hold a controlling interest in licensee

(1) A person must not hold a controlling interest in a licensee that is a body corporate.

(2) A person must not act in concert with another person to hold a controlling interest, take control of a controlling interest or exercise significant influence over a controlling interest in a licensee that is a body corporate.

Penalty: 100 penalty units or imprisonment for 6 months.

95. 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 —

Totalisator Licensing and Regulation Act 1999

- (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.

96. 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.

97. 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.

98. 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; 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.

Totalisator Licensing and Regulation Act 1999

(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.

99. Offences to be tried summarily

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

100. 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.

101. 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.

102. 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.

(4) A reference in this section to a person employed by a licensee includes a reference to a person whose services are provided to the licensee under a contract with the person or another person.

103. 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.

104. 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 of 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 – MISCELLANEOUS

105. Protection of inspectors

No civil or criminal proceeding lies against a person who is or has been an inspector for or in relation to an act or thing done or omitted to be done in good faith 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 the inspector.

106. 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.

107. 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.

108. 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) prescribe events or activities other than races on which wagering on a totalisator may occur under the Act;
 - (d) provide for the variation of a licence, including for the purpose to enable the licensee to operate a totalisator for wagering on events or activities other than races;
 - (e) provide for wagering on races, events or activities conducted outside the Territory;
 - (f) provide for the making of bets with a licensee by electronic means;
 - (g) 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;
 - (h) prescribe procedures for the conduct of arbitration under Division 5 of Part 7;
 - (j) prescribe procedures for the conduct of a hearing under Part 8;
 - (k) provide for the prohibition or restriction of particular share holding interests in a licensee that is a company and the exercise of control over shareholding in such a licensee;
 - (m) provide for the exercise of control by the authority in relation to the structure and assets of a licensee that is a body corporate, including by means of prescribing conditions to be imposed on licences, requiring the authority's approval to

Totalisator Licensing and Regulation Act 1999

changes made to the structure or assets or the Directors and persons concerned in the management or control of the licensee and requiring the giving of undertakings and lodging of securities by directors, officers and other persons concerned in the management or control of the licensee;

- (n) prescribe penalties not exceeding 100 penalty units for offences against the Regulations; and
- (p) designate an offence against a regulation as a regulatory offence.

109. 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.
