

Serial 168  
Racing and Betting Legislation Amendment Bill 2016  
Mr Styles

A Bill for an Act to amend the *Racing and Betting Act* and *Racing and Betting Regulations*



**NORTHERN TERRITORY OF AUSTRALIA**

**RACING AND BETTING LEGISLATION AMENDMENT ACT 2016**

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**Act No. [ ] of 2016**

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# NORTHERN TERRITORY OF AUSTRALIA

Act No. [ ] of 2016

An Act to amend the *Racing and Betting Act* and *Racing and Betting Regulations*

[Assented to [ ] 2016]  
[Second reading [ ] 2016]

The Legislative Assembly of the Northern Territory enacts as follows:

## Part 1 Preliminary matters

### 1 Short title

This Act may be cited as the *Racing and Betting Legislation Amendment Act 2016*.

### 2 Commencement

- (1) This Act, except Part 3, commences on the day on which the Administrator's assent to this Act is declared.
- (2) Part 3 commences on the day fixed by the Administrator by *Gazette* notice.

## Part 2 Amendments commencing on assent

### Division 1 Amendment of Racing and Betting Act

#### 3 Act amended

This Division amends the *Racing and Betting Act*.

**4 Section 4 amended**

- (1) Section 4(1)  
*omit*  
, unless the contrary intention appears
- (2) Section 4(1), definitions **key employee** and **remote area licence**  
*omit*
- (3) Section 4(1)  
*insert (in alphabetical order)*  
**audit log**, for Part IVA, see section 109A.  
**betting exchange**, for Part IVA, see section 109A.  
**betting exchange agent**, see section 109A.  
**betting exchange business**, for Part IVA, see section 109A.  
**betting exchange licence**, for Part IVA, see section 109A.  
**betting exchange operator**, see section 109A.  
**betting receipt**, for Part IVA, see section 109Q(1).  
**executive officer**, for Part IVA, see section 109A.  
**key employee** means:  
(a) a person licensed under section 103; or  
(b) a person who holds a key employee licence.  
**key employee licence**, see section 109A.  
**key position**, for Part IVA, see section 109A.
- (4) Section 4(1), definition **licensed premises**, after "90"  
*insert*  
or 109C



- (5) Section 4(1), at the end

*insert*

*Note for subsection (1)*

*The Interpretation Act contains definitions and other provisions that may be relevant to this Act.*

## **5 Section 8 amended**

Section 8(b), after "bookmaker"

*insert*

, a betting exchange operator

## **6 Section 18 amended**

- (1) Section 18(2)(c)

*omit*

all words after "public,"

*insert*

of:

- (i) betting by and with bookmakers; and
- (ii) betting by or through betting exchange operators; and
- (iii) betting by means of a totalizator conducted under a licence granted under section 111; and

- (2) Section 18(2)(d), after "bookmakers,"

*insert*

betting exchange operators,

## **7 Section 24 amended**

- (1) Section 24(1) and (2)

*omit*

or 102

*insert*

, 102 or 109C

(2) Section 24(4)

*omit*

licence or

*insert*

licence, other than a betting exchange licence, or a

(3) After section 24(5)

*insert*

(5A) A betting exchange operator must pay to the Commission an annual licence fee of 200 000 revenue units:

(a) within 14 days after the grant or renewal of the operator's betting exchange licence; and

(b) while the licence remains in force – on or before each anniversary of the date on which the licence was granted or renewed.

**8 Section 26 inserted**

After section 25

*insert*

**26 Costs of investigation of application**

- (1) If, under section 90, 102 or 109C, the Commission carries out an investigation or inquiry in relation to an application for a licence, the Commission may require the applicant 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 evidence of the cost.

**9 Sections 86, 88, 90A and 102A repealed**

Sections 86, 88, 90A and 102A

*repeal*

**10 Part IVA inserted**

After section 109

*insert*

**Part IVA Betting exchange operators**

**Division 1 Definitions**

**109A Definitions**

In this Part:

***audit log*** means an approved audit log required to be kept by a betting exchange operator under section 109R.

***betting exchange*** means a facility, electronic or otherwise, that enables a person to:

- (a) make or receive, through a betting exchange operator, a bet or wager with other persons; or
- (b) make, through a betting exchange operator, a bet or wager that may be:
  - (i) matched with one or more opposing bets or wagers that have been made through the operator; or
  - (ii) transmitted by the operator to another person for matching with one or more opposing bets or wagers.

***betting exchange agent*** means a person permitted under section 109L(2) to act for a betting exchange operator.

***betting exchange business*** means the business of operating a betting exchange.

**betting exchange licence** means a licence to conduct a betting exchange business in specified premises granted under section 109C, or a renewal of the licence granted under section 109G.

**betting exchange operator** means:

- (a) a person who holds a betting exchange licence; and
- (b) if the person is a body corporate – the nominee endorsed on the licence document in accordance with section 109F(1).

**betting receipt**, see section 109Q(1).

**executive officer**, of a body corporate, means a director or other person who is concerned with, or takes part in, the management of the body corporate.

**key employee licence** means a licence granted under section 109J(3) permitting a person to be employed or engaged by a betting exchange operator in a key position at licensed premises.

**key position** means:

- (a) a position in a betting exchange business that is designated a key position, or involves the performance of a function that is designated a key function, under section 109J(1); or
- (b) any other position in a betting exchange business if the holder of the position controls, or exercises significant influence over, the business.

## **Division 2 Betting exchange licences**

### **109B Application for betting exchange licence**

- (1) A person may apply for a licence to conduct a betting exchange business in premises specified in the application.
- (2) The application must:
  - (a) be made to the Commission in the approved form; and
  - (b) be accompanied by:
    - (i) the information evidencing the applicant's ability to conduct a betting exchange business specified in the approved form; and
    - (ii) a processing fee of 200 000 revenue units; and

- (c) if the applicant is a body corporate – specify the name and address of the individual nominated by the applicant to carry out the functions of the betting exchange operator.
- (3) If the applicant is a body corporate, the Commission may require the applicant to supply any information relating to the operations and structure, or executive officers, of the applicant, that the Commission thinks fit.
- (4) In addition, the Commission may require an applicant to supply any other information that will assist the Commission to determine the application.

### **109C Commission may grant betting exchange licence**

- (1) Subject to this section and section 109D, the Commission may grant or refuse to grant a betting exchange licence to an applicant.
- (2) In determining whether to grant or refuse to grant the betting exchange licence, 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) if the applicant is a body corporate – whether it has or has arranged a satisfactory ownership, trust or corporate structure;
  - (d) whether the applicant has obtained or is able to obtain:
    - (i) financial resources that are adequate to ensure the financial viability of the betting exchange business proposed to be conducted; and
    - (ii) 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:
    - (i) is not of good repute having regard to character, honesty and integrity; or
    - (ii) has undesirable or unsatisfactory financial resources;
  - (g) whether each executive officer, partner and trustee of the applicant, and any other 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.
- (3) For the purpose of determining whether to grant or refuse to grant the betting exchange licence, the Commission may carry out the investigations and inquiries the Commission considers necessary.

*Note for section 109C*

*Section 109P also requires an applicant to give a security to the Commission.*

**109D Persons to whom betting exchange licence must not be granted**

- (1) A betting exchange licence must not be granted to:
- (a) an individual who has not attained the age of 18 years; or
  - (b) a person who already holds a betting exchange licence; or
  - (c) a person who has an interest of any kind in a betting exchange business conducted by a betting exchange operator; or
  - (d) a person who is not a fit and proper person.
- (2) Without limiting subsection (1)(d), a person is not a fit and proper person if the person, within 10 years before the date of making the application for the betting exchange licence:
- (a) has been found guilty of an offence against this Act or the *Gaming Control Act, Gaming Machine Act* or *Unlawful Betting Act*; or
  - (b) has been found guilty of an offence prescribed by regulation as a disqualifying offence.

### **109E Licensed premises and conditions**

- (1) A betting exchange licence applies in relation to the premises specified in the licence.
- (2) Without limiting section 24(3), the Commission may impose on a betting exchange licence granted to a body corporate conditions relating to the structure and assets of the body corporate, including conditions requiring:
  - (a) the approval of the Commission before any change may be made to the structure or assets, or the executive officers, of the body corporate; and
  - (b) the giving of undertakings and the lodging of securities by executive officers of the body corporate.

### **109F Endorsements**

- (1) A betting exchange licence granted to a body corporate must be endorsed with the name and address of the individual nominated under section 109B(2)(c) in the application for the licence.
- (2) A betting exchange licence granted to a person who applied for the licence on behalf of, and for the benefit of, the person and other persons, must be endorsed with the names and addresses of those other persons.
- (3) A person commits an offence if:
  - (a) the person acquires or holds an interest in, or derives a benefit from, a betting exchange business conducted by a betting exchange operator; and
  - (b) the person's name is not endorsed on the operator's betting exchange licence.

Maximum penalty: 40 penalty units.

- (4) Subsection (3) does not apply if the person has the approval of the Commission.

### **109G Renewal of betting exchange licence**

- (1) The Commission may renew a betting exchange licence on application by the betting exchange operator.
- (2) The application must be in the approved form and accompanied by the processing fee of 200 000 revenue units.

- (3) Section 109C(2) applies in relation to an application for the renewal of a betting exchange licence under this section as if the application were for the grant of the betting exchange licence.
- (4) The renewal of a betting exchange licence may be subject to different conditions than those to which the licence being renewed was subject.

#### **109H Variation of betting exchange licence or conditions**

- (1) A betting exchange operator may apply to the Commission for a variation of the operator's betting exchange licence, or the conditions to which it is subject, and the Commission may vary or refuse to vary the licence or conditions as it thinks fit.
- (2) The Commission may, on its own initiative:
  - (a) vary a betting exchange operator's betting exchange licence or the conditions to which it is subject; or
  - (b) impose additional conditions on the licence.
- (3) However, before doing so, the Commission must:
  - (a) give the betting exchange operator not less than 28 days written notice of the proposed variation of the betting exchange licence or conditions or the additional conditions to be imposed; and
  - (b) consider any representations made by the operator.
- (4) This section does not permit the Commission to vary the effect of a prescribed condition to which a betting exchange licence is subject.

### **Division 3 Employees and betting exchange agent**

#### **109J Key positions and key employee licence**

- (1) The Commission may, by notice to a betting exchange operator, designate a position or function in the operator's betting exchange business to be a key position or key function.
- (2) A person may apply to the Commission in the approved form accompanied by the prescribed fee for a key employee licence.
- (3) The Commission may, in its discretion:
  - (a) grant a key employee licence subject to the conditions the Commission thinks fit and endorses on the licence; or



- (b) refuse to grant the licence.
- (4) Subsection (5) applies if, in relation to a bet made through a betting exchange operator, a key employee employed or engaged by the operator:
  - (a) fails to enter in the audit log kept by the operator the particulars of the bet prescribed for section 109R(1); or
  - (b) fails to enter those particulars immediately after the bet is made or received and before making any other record or note of the bet.
- (5) Whether or not the key employee is prosecuted for an offence constituted by the employee's act or omission, the Commission may suspend the employee's key employee licence for the period it thinks fit.

#### **109K Offences in relation to employees**

- (1) A betting exchange operator must not employ or engage a person in a key position at licensed premises unless the person holds a key employee licence.

Maximum penalty: 17 penalty units.

- (2) A person commits an offence if the person:
  - (a) is employed or engaged by a betting exchange operator in a key position at licensed premises; and
  - (b) does not hold a key employee licence.

Maximum penalty: 17 penalty units.

- (3) A person who is, or appears to be, employed or engaged by a betting exchange operator in a key position at licensed premises must, on demand by a betting inspector or person authorised by the Commission, produce the person's key employee licence.

Maximum penalty: 17 penalty units.

- (4) An offence against subsection (2) or (3) is a regulatory offence.

#### **109L Person may act for betting exchange operator**

- (1) A betting exchange operator may apply to the Commission, in the approved form, for permission for a specified person to act for the operator in the operator's absence.

- (2) The Commission may grant the permission for a period not exceeding 12 months or refuse the permission.
- (3) A betting exchange operator must not allow the operator's licensed premises to be open for business when the operator is not in attendance to supervise the conduct of the operator's betting exchange business unless the operator has obtained permission under subsection (2) for a person to act for the operator during the operator's absence.

Maximum penalty: 17 penalty units.

- (4) A betting exchange agent must ensure that a notice stating the following matters is displayed prominently on the betting exchange operator's licensed premises at all times during which the premises are open for business during the operator's absence:
  - (a) the Commission has granted permission for the agent to act for the operator;
  - (b) the period for which the permission has been granted;
  - (c) the agent's name.

Maximum penalty: 17 penalty units.

- (5) A betting exchange agent has the same duties, and is liable to the same extent, as if the agent were the betting exchange operator for whom the agent is acting.

**109M Liability of betting exchange operator for employees and betting exchange agent**

- (1) If an employee of a betting exchange operator, by act or omission related to the betting exchange business of the operator, commits an offence against this Act, the operator and the employee are severally liable in respect of the offence.
- (2) If a betting exchange agent, by act or omission while acting for a betting exchange operator, commits an offence against this Act, the agent and the operator are severally liable in respect of the offence.
- (3) In a prosecution of a betting exchange operator for an offence against this Act for an act or omission of the operator's employee or a betting exchange agent, it is not a defence:
  - (a) that the operator had no knowledge of the act or omission of the employee or agent; or

- (b) that it was not the intention of the operator that the employee or agent should do the act or make the omission.

#### **Division 4 Matters relating to operating a betting exchange**

##### **109N Operator of betting exchange must be licensed**

- (1) A person must not operate a betting exchange at premises unless the person is the holder of a betting exchange licence permitting the operation of a betting exchange at the premises.

Maximum penalty: For a first offence – not less than 60 penalty units and not more than 105 penalty units.

For a second offence – not less than 105 penalty units and not more than 215 penalty units.

For a third or subsequent offence – not less than 215 penalty units and not more than 430 penalty units.

- (2) A person who is, or appears to be, operating a betting exchange must, on demand by a betting inspector, produce the person's betting exchange licence.

Maximum penalty: 8 penalty units.

##### **109P Security must be given to Commission**

- (1) The Commission must not grant a betting exchange licence to an applicant unless the applicant has given a security to the Commission for payment of the following:

- (a) betting exchange tax;
- (b) other amounts payable by the applicant to the Commission;
- (c) winning bets made or received through the applicant in the applicant's capacity as a betting exchange operator.

- (2) The security must be in the approved form and in an amount or to a value determined by the Commission, which must be no more than the prescribed amount.

- (3) The Commission may, from time to time, redetermine the amount or value of a security.

- (4) If the Commission does so and the redetermined amount or value is greater than the previous amount or value of the security, the

Commission must not renew the betting exchange licence to which the security relates until the betting exchange operator has increased the security given to the Commission to the redetermined amount or value.

- (5) If the Commission is satisfied that a betting exchange operator has refused or omitted to pay an amount payable to the Commission for betting exchange tax or otherwise, or payable for a winning bet, the Commission:
- (a) may pay the amount from any money received by it under a security given by the operator and held by it under this section; and
  - (b) if it does so – must, under section 109V, either:
    - (i) cancel the operator's betting exchange licence; or
    - (ii) suspend the licence until the operator repays to the Commission the amount the Commission has paid, or for a longer period, as the Commission thinks fit.
- (6) An amount payable to the Commission by a betting exchange operator for betting exchange tax or otherwise must be paid in full from any security given by a betting exchange operator and held by the Commission under this section before payment is made of a winning bet.
- (7) In this section:

***betting exchange tax*** means tax imposed by section 109Z.

#### **109Q Issue of betting receipt**

- (1) Unless otherwise approved, immediately after a bet is made or received through a betting exchange operator, the operator must issue to the person who made or received the bet a receipt (a ***betting receipt***) that clearly shows, in the prescribed manner, the prescribed particulars of the bet.

Maximum penalty: 40 penalty units.

- (2) A betting exchange operator must issue a separate betting receipt for each bet made or received through the operator.

Maximum penalty: 40 penalty units.

- (3) However, if a win bet and a place bet are made or received through the betting exchange operator at the same time in respect of the same runner, the operator may issue one betting receipt for both bets.

#### **109R Audit log of bets**

- (1) A betting exchange operator must keep an approved audit log and record in the audit log the prescribed particulars of each bet made or received through the operator.
- (2) A record of a bet required to be made under subsection (1) must be made immediately after the bet is made or received through the betting exchange operator and before any other record or note of the bet is made.
- (3) In addition, a betting exchange operator must comply with any requirements prescribed by regulation for the recording of bets made or received through the operator.
- (4) A betting exchange operator must retain all records made under subsection (1) or (3) for a period of not less than 3 years from the date on which they were made or any longer period prescribed by regulation.
- (5) A betting exchange operator must not contravene this section.

Maximum penalty: For a first offence – 40 penalty units.

For a second offence – 85 penalty units.

For a third or subsequent offence –  
125 penalty units.

#### **109S Betting exchange operator to account for records**

- (1) A betting exchange operator or person who has ceased to be a betting exchange operator must, at the time and in the manner required by the Commission, give the Commission a true copy of each audit log kept by the operator or person.
- (2) A betting exchange operator must, on the oral or written direction of the Commission, a betting inspector or a person authorised by the Commission (each an **authorised entity**):
- (a) produce for inspection all records and any item of recording equipment or any other equipment, device or thing as directed; and

(b) allow the records, recording equipment or other equipment, device or thing to be inspected or investigated by the authorised entity in the manner the entity thinks fit.

(3) A person must not contravene this section.

Maximum penalty: For a first offence – 40 penalty units.

For a second offence – 85 penalty units.

For a third or subsequent offence –  
125 penalty units.

### **109T Supervision of betting exchange operators**

(1) An authorised person may:

(a) direct a person at licensed premises to give the authorised person any property that the authorised person has reasonable grounds for believing is being, or has been, used for making records relating to betting through a betting exchange operator; and

(b) if the authorised person believes on reasonable grounds that an offence against this Act has been committed using the property, take possession of the property.

(2) An authorised person may enter licensed premises and direct any of the following persons to assist the authorised person, as the authorised person considers necessary, for the purpose of ascertaining whether this Act is being complied with:

(a) the occupier of the premises or an employee or agent of the occupier;

(b) a betting exchange operator, betting exchange agent or employee of a betting exchange operator.

(3) A person must not contravene a direction given under subsection (1)(a) or (2).

Maximum penalty: For a first offence – 40 penalty units.

For a second offence – 85 penalty units.

For a third or subsequent offence –  
125 penalty units.

(4) In this section:

**authorised person** means:

- (a) a betting inspector; or
- (b) a person authorised in writing by the Commission.

**property** means a document or any equipment, device or thing of any kind.

#### **109U Prohibited conduct**

(1) A betting exchange operator must not:

- (a) procure a person to make a bet on behalf of the operator or another betting exchange operator that, if made by the operator personally, would be contrary to this Act; or
- (b) sell or transfer a betting receipt that is required to be issued to a person under section 109Q to another person.

Maximum penalty: 40 penalty units.

(2) A betting exchange operator must not advertise the operator's calling as a betting exchange operator otherwise than as prescribed.

Maximum penalty: 40 penalty units.

(3) An offence against subsection (2) is a regulatory offence.

#### **109V Discipline of betting exchange operator and cancellation of licence**

(1) The Commission may discipline a betting exchange operator if satisfied the operator:

- (a) has committed an offence against this Act or rules made under section 109X or has failed to perform a duty required of the operator by this Act; or
- (b) has failed to pay, within 3 days after being required by the Commission to do so, a bet made or received through the operator that is a winning bet; or

- (c) has entered into an arrangement with a person under which the person derives or is entitled to derive a benefit or advantage from the operator's betting exchange business, unless:
    - (i) the person's name is endorsed on the operator's betting exchange licence as required by section 109F(1) or (2); or
    - (ii) the arrangement has been approved by the Commission; or
  - (d) has failed to comply with a condition of the operator's licence.
- (2) For subsection (1), the Commission may discipline a betting exchange operator in one of the following ways:
- (a) by reprimanding the operator;
  - (b) by imposing a fine not exceeding 170 penalty units on the operator;
  - (c) by suspending or cancelling the operator's betting exchange licence.
- (3) The Commission must cancel a betting exchange operator's betting exchange licence:
- (a) if satisfied the operator is not a fit and proper person to continue to hold the licence; or
  - (b) on the written request of the operator.
- (4) If a court orders that a betting exchange operator deliver the operator's betting exchange licence to the Commission for suspension for a period or cancellation, the Commission, upon the delivery of the licence, must suspend it for that period or cancel it, as required.
- (5) If the Commission cancels a betting exchange operator's betting exchange licence, it must inquire whether all bets made or received through the operator that are winning bets have been paid by the operator, and must:
- (a) if satisfied that all those bets have been paid – vacate the security that it holds under section 109P in relation to the licence; or
  - (b) otherwise – realise the security and divide the proceeds, as prescribed, among the persons who made those bets.



- (6) If the Commission suspends a betting exchange operator's betting exchange licence, the licence is of no effect during the period of the suspension.

#### **109W Business arrangements to be approved by Commission**

- (1) Except with the approval of the Commission, a betting exchange operator must not:
- (a) enter into a partnership, in relation to the betting exchange business conducted under the operator's betting exchange licence, with a person whose name is not endorsed on the licence; or
  - (b) make an arrangement with a person under which the person derives or is entitled to derive a benefit or advantage from the operator's betting exchange business; or
  - (c) borrow money, except from an approved financial institution, for use in that business.

Maximum penalty: 40 penalty units.

- (2) An offence against subsection (1) is a regulatory offence.

#### **109X Commission may make rules**

- (1) The Commission, with the approval of the Minister, may make rules, not inconsistent with this Act, for the control and regulation of betting through betting exchange operators.
- (2) The rules may impose penalties, not exceeding 33 penalty units, for offences against the rules.
- (3) In this section:

***betting*** includes the negotiation, acceptance and distribution of money in connection with bets and the settling of bets.

#### **109Y Legal proceedings in respect of bets**

- (1) Subject to this section, a person may take proceedings for the recovery of money payable on a winning lawful bet made or received through a betting exchange operator.
- (2) If a dispute relating to lawful betting arises between a betting exchange operator and a person, the dispute must be referred by the operator, and may be referred by the other party to the dispute, to the Commission.

- (3) The Commission may declare a sporting event, other than a horse race, trotting race or greyhound race, to constitute a dispute for this section and declare any person to be a party to the dispute if it appears to the Commission, on the complaint of a person or of its own motion, that:
  - (a) the event may not have been fairly or lawfully conducted; or
  - (b) for any other reason the result of the event, either generally or in relation to a particular bet or class of bets, is not what would be legitimately expected if all steps in the proceedings of the event or the declaration of its result were honestly and fairly conducted or declared.
- (4) If a dispute has been referred under subsection (2) to the Commission or declared under subsection (3), the Commission may:
  - (a) summon the parties to the dispute to appear and to give evidence before it; and
  - (b) take evidence relating to the dispute from other persons; and
  - (c) require a party to the dispute to produce any books, accounts, tickets or other documents that, in the opinion of the Commission, ought to be examined in order to determine the dispute.
- (5) The Commission must hear and determine all disputes referred to it or declared under this section.
- (6) If a party to a dispute who has been summoned to attend before the Commission fails without reasonable excuse to attend, the Commission must determine the dispute in favour of the party who attends or, in the case of a dispute declared under subsection (3), as it thinks fit, including declaring the event void.
- (7) The determination by the Commission of a dispute referred to it under subsection (2) or declared under subsection (3) is final and conclusive as to the matter in dispute.
- (8) In determining a dispute under this section, the Commission is not bound by rules of procedure or evidence, but may inform itself of the facts necessary to determine the dispute in the manner it thinks fit.
- (9) For this section, a bet is not lawful if it is declared by the Commission, after an investigation under this section, to be not lawful.

## Division 5 Betting exchange tax

### 109Z Liability to pay tax

- (1) A betting exchange operator's **gross monthly profit** for a month is:
  - (a) the total amount of commission retained or received by the operator during the month; less
  - (b) the total amount of commission retained or received by the operator during the month from persons located in Australia or New Zealand in respect of a sporting event other than a horse race, trotting race or greyhound race.
- (2) A betting exchange operator must pay to the Commission, on or before the 14th day of each calendar month, a tax:
  - (a) imposed on the operator's gross monthly profit for the preceding calendar month; and
  - (b) calculated at the rate of 10% on the amount of that profit.
- (3) However, the amount of tax payable by a betting exchange operator for a financial year under subsection (2) must not exceed:
  - (a) an amount equal to the monetary value of 500 000 revenue units calculated in accordance with the *Revenue Units Act*; or
  - (b) another amount prescribed by regulation.
- (4) A person commits an offence if the person fails to pay an amount of the tax payable under subsection (2) in accordance with this Act.

Maximum penalty: 40 penalty units or imprisonment for 12 months.
- (5) An offence against subsection (4) is a regulatory offence.
- (6) If a person fails to pay an amount of the tax payable under subsection (2) in accordance with this Act:
  - (a) the amount is recoverable by the Commission as a debt due and payable by the person to the Territory; and
  - (b) a court that finds the person guilty of an offence against subsection (4) in relation to the amount may order the person to pay the amount to the Commission, whether or not any other penalty is also imposed for the offence; and

- (c) a certificate setting out the terms of an order made under paragraph (b) and filed in a court of competent jurisdiction by the Commission may be enforced as if it were a judgment of that court.

(7) In this section:

**commission** means:

- (a) the amount that a betting exchange operator is permitted to retain from a winning bet made or received by a person through the operator (or a person acting for the operator) as authorised by the Commission from time to time; and
- (b) any other commission the operator has charged and received from a customer that it retains as revenue.

#### **109ZA Lodgement of returns**

- (1) A betting exchange operator must, on or before the 14th day of each calendar month, lodge with the Commission a return in the approved form setting out the following:
  - (a) details of all bets made or received through the operator during the preceding calendar month;
  - (b) all records relating to the bets required to be retained by the operator under section 109R(4);
  - (c) the information about the betting exchange business conducted by the operator required by the Commission.

Maximum penalty: 40 penalty units.

- (2) An offence against subsection (1) is a regulatory offence.

#### **109ZB Procedure for payments and returns**

- (1) A betting exchange operator who is required to make a payment under section 109Z and lodge a return under section 109ZA may do so by:
  - (a) delivering the payment and return to the office of the Commission; or
  - (b) sending the payment and return by registered mail to the office of the Commission.

- (2) If a betting exchange operator makes a payment and lodges a return in accordance with subsection (1)(b), the payment is taken to be made to the Commission, and the return is taken to be lodged with the Commission, when a receipt is issued for the envelope containing it.

### **109ZC Suspension of licence**

If a betting exchange operator fails to make a payment in accordance with section 109Z, or lodge a return in accordance with section 109ZA, the operator's betting exchange licence is suspended until the operator makes the payment, or lodges the return, with the Commission.

### **11 Section 119A amended**

Section 119A(3)

*omit*

by virtue of section 71(3), he or she

*insert*

because of section 71(3) or 109D(1)(d), the applicant

### **12 Section 119C amended**

Section 119C(4)

*omit*

by virtue of section 71(3)

*insert*

because of section 71(3) or 109D(1)(d)

### **13 Section 132 amended**

- (1) After section 132(1)

*insert*

- (1A) A betting exchange operator commits an offence if the operator:

- (a) allows a person to make or receive a bet through the operator;  
and

(b) either:

- (i) the person has not attained the age of 18 years; or
- (ii) the operator knows the person is betting on behalf of a person who has not attained that age.

Maximum penalty: 4 penalty units.

(2) After section 132(4)

*insert*

(4A) A person commits an offence if, on behalf of another person who has not attained the age of 18 years, the person makes or receives a bet through:

- (a) a betting exchange operator; or
- (b) a betting exchange agent; or
- (c) a betting exchange operator's employee.

Maximum penalty: 4 penalty units.

(3) Section 132(5)

*omit*

all words from "charge" to "he"

*insert*

prosecution for an offence against this section if, at the time of the offence, the defendant

## **14 Sections 146A and 146B inserted**

After section 146

*insert*

### **146A Misleading information in application, return etc.**

(1) A person commits an offence if:

- (a) the person makes or gives an application, return, record or other document under this Act; and

(b) the document contains misleading information.

Maximum penalty: 100 penalty units or imprisonment for 12 months.

(2) Subsection (1) does not apply if the person, when giving the document:

(a) draws the misleading aspect of the document to the attention of the person to whom it is made or given; and

(b) to the extent to which the person can reasonably do so – gives the person the information necessary to remedy the misleading aspect of the document.

(3) If a bookmaker or betting exchange operator is found guilty of an offence against subsection (1), the court must order the bookmaker or operator to deliver the bookmaker's or operator's licence to the Commission for cancellation.

(4) In this section:

***misleading information*** means information that is misleading in a material particular or because of the omission of a material particular.

#### **146B Orders forbidding impoverished persons to bet**

(1) Subsection (2) applies if a written complaint is made to a court that a person, by excessive betting, has impoverished or is likely to impoverish himself or herself to such a degree as to expose to want, or endanger the welfare of, the person or the person's family.

(2) The court may issue a summons calling on the person to appear at a time and place specified in the summons, and to show cause why an order should not be made forbidding the person to bet with a bookmaker or betting exchange operator.

(3) The court hearing the complaint may do any of the following:

(a) investigate the matters contained in the complaint, and hear the evidence adduced in support of it, and also any evidence of the person complained against and of any witnesses called on his behalf;

(b) summon a bookmaker or betting exchange operator to give evidence of the matters complained of;

(c) adjourn the investigation from time to time;

(d) if satisfied about the facts alleged in the complaint, make an order forbidding the person, for a period not exceeding 2 months from the date of the order, to:

- (i) bet with a bookmaker or betting exchange operator; or
- (ii) loiter about or enter a racing venue or licensed premises.

(4) An order made under subsection (3) may be revoked by the court.

(5) All proceedings under this section must be conducted in private and not be open to the public.

(6) A person must not contravene an order made under subsection (3).

Maximum penalty: 17 penalty units.

(7) A bookmaker or betting exchange operator (the **licensee**) commits an offence if:

- (a) the licensee accepts a bet from a person or allows a person to make or receive a bet through the licensee; and
- (b) the person is the subject of an order made under subsection (3) that is in force and the licensee has received notice of the order.

Maximum penalty: 17 penalty units.

## **15 Section 148 amended**

(1) Section 148(g)

*omit*

and bookmakers

*insert*

, bookmakers and betting exchange operators

(2) Section 148(h), after "bookmakers"

*insert*

or betting exchange operators



(3) Section 148(j)

*omit*

all words after "been"

*insert*

paid:

- (i) by the bookmaker to the person who made the bet with the bookmaker; or
- (ii) by the betting exchange operator to the person who made or received the bet through the operator; and

(4) Section 148(k)

*omit*

all words from "realization of" to "the bookmaker"

*insert*

realisation of securities given by a bookmaker or betting exchange operator and the division of the proceeds of the realisation among the persons who made with the bookmaker, or made or received through the operator,

(5) After section 148(q)

*insert*

- (qa) the regulation and supervision of betting exchange operators; and
- (qb) betting by or through betting exchange operators; and

## **Division 2 Amendment of Racing and Betting Regulations**

### **16 Regulations amended**

This Division amends the *Racing and Betting Regulations*.

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**17 Regulation 21 replaced**

Regulation 21

*repeal, insert*

**21 Fees payable pro rata**

- (1) This regulation applies in relation to an application for the grant of a licence, other than an excluded licence, or permit if the application is made during the financial year in which the licence or permit will be current.
- (2) The fee payable for the grant of the licence or permit is an amount equal to 1/12th of the fee otherwise applicable under these Regulations for the grant, multiplied by the number of months or part months remaining in the financial year after the application is made.
- (3) In this regulation:

***excluded licence*** means a betting exchange licence or a licence mentioned in regulation 11 or 12.

**Part 3 Amendments commencing on day to be fixed****18 Section 4 amended**

- (1) Section 4(1)

*insert (in alphabetical order)*

***affected person***, for Part IIIA, see section 69A(1).

***another jurisdiction***, for Part IIIA, see section 69A(1).

***approval***, for Part IIIA, see section 69A(1).

***betting service provider***, for Part IIIA, see section 69A(1).

***decision notice***, for Part IIIA, see section 69A(1).

***internally reviewable decision***, for Part IIIA, see section 69G(1).

***NT sports information***, for Part IIIA, see section 69A(1).

***specified event***, for Part IIIA, see section 69A(1).

***sports control body***, for Part IIIA, see section 69A(1).

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***totalisator operator***, for Part IIIA, see section 69A(1).

***tribunal reviewable decision***, for Part IIIA, see section 69N.

***uses NT sports information***, for Part IIIA, see section 69A(2).

(2) Section 4(1), definition ***principal club***

*omit*

42(2)(a)

*insert*

42(a)

#### **19 Section 4A amended**

Section 4A(3), after “to”

*insert*

Part IIIA, and

#### **20 Section 23 amended**

Section 23(1)(a)

*omit*

42(2)(c)

*insert*

42(c)

#### **21 Section 42 replaced**

Section 42

*repeal, insert*

#### **42 Principal clubs**

The Minister may, by Gazette notice, do any of the following:

- (a) appoint the Commission or an association to be a principal club;
- (b) declare that an association ceases to be a principal club;

- 
- (c) declare a locality to be the locality in respect of which a principal club has jurisdiction as a principal club for the purposes of this Act and the Rules of Racing;
  - (d) specify the race clubs over which each principal club is to exercise authority and control within its jurisdiction;
  - (e) specify the composition of the membership of a principal club's committee.

## 22 Section 43 amended

Section 43

*omit*

42(2)(d)

*insert*

42(d)

## 23 Part IIIA inserted

After section 69

*insert*

### Part IIIA Use of NT sports information

#### Division 1 Preliminary matters

##### 69A Interpretation

- (1) In this Part:

***affected person:***

- (a) for an internally reviewable decision – see section 69G(3); or
- (b) for a tribunal reviewable decision – see section 69N(2).

***another jurisdiction*** means a State or another Territory.

***approval***, in relation to NT sports information, means an approval granted under section 69C(1)(a) to use that information.

**betting service provider** means any of the following:

- (a) a bookmaker, sports bookmaker, totalisator operator or betting exchange operator;
- (b) a person carrying on a business under a law of another jurisdiction that substantially corresponds to the business of a bookmaker, sports bookmaker, totalisator operator or betting exchange operator;
- (c) an agent or employee of a person mentioned in paragraph (a) or (b).

**decision notice**, for a decision, means a written notice setting out:

- (a) the decision and the reasons for it; and
- (b) any right the person to whom the notice is to be given has under this Act to apply for a review of, or to appeal, the decision.

**internally reviewable decision**, see section 69G(1).

**NT sports information** means:

- (a) in relation to a specified event that is a race to be held at a meeting at a racing venue in the Territory – information that identifies, or is capable of identifying, the name or number of a horse or greyhound:
  - (i) as a horse or greyhound that has been nominated for, or is taking part in, the race; or
  - (ii) as a horse or greyhound that has been withdrawn from the race; or
- (b) in relation to another specified event in the Territory – information about the event, including information about an individual, a team or a player on a team, who or that is scheduled to take part in the event.

**specified event** means:

- (a) a race at a meeting held or to be held at a racing venue in the Territory; or
- (b) a sporting event as specified by the Commission under subsection (4).

**sports control body** means:

- (a) for a specified event that is a horse-race – Thoroughbred Racing NT Incorporated; or
- (b) for a specified event that is a greyhound-race or trotting race – the Commission; or
- (c) for any other specified event – an organisation authorised by the Commission under subsection (3).

**totalisator operator** means a licensee or operator under the *Totalisator Licensing and Regulation Act*.

**tribunal reviewable decision**, see section 69N(1).

- (2) For this Part, a betting service provider **uses NT sports information** only if the provider, whether in Australia or elsewhere, in the course of business as a betting service provider:
  - (a) publishes the information; or
  - (b) otherwise uses the information in a manner prescribed by regulation.
- (3) For subsection (1), definition **sports control body**, paragraph (c), the Commission may, by *Gazette* notice, authorise an organisation to be the sports control body for a specified event.
- (4) For this Part:
  - (a) a reference to a specified event includes a reference to a specified event scheduled to take place even if the event does not take place; and
  - (b) the Commission may specify a sporting event to be a specified event; and
  - (c) the Commission may specify a class of sporting events and, if it does so, a reference to a specified event in this Part includes a reference to the class or any event in the class.

## **Division 2      Approval to use NT sports information**

### **69B      Application for approval to use NT sports information**

A person may apply to the sports control body under whose authority a specified event is to be held, in the form approved by the body, for approval to use NT sports information about the event.

**69C Approval to use NT sports information**

- (1) As soon as practicable after receiving an application under section 69B and, in any event, within 28 days after receiving the application, the sports control body to which the application was made must make one of the following decisions:
  - (a) to grant the application and approve the use of the information, with or without one or more conditions as follows:
    - (i) a condition that the holder of the approval pay a fee imposed as prescribed by regulation;
    - (ii) another condition specified in the approval;
  - (b) to refuse the application.
- (2) An approval must specify the period of its validity.
- (3) As soon as practicable after making the decision, the sports control body must give a decision notice for the decision to the applicant.
- (4) If a condition of the approval is the payment of a fee, the fee is a debt due and payable to the sports control body that granted the approval and is recoverable in a court of competent jurisdiction.

**69D Variation of conditions**

- (1) A sports control body that grants an approval to use NT sports information may decide to vary the conditions of the approval or impose additional conditions on the approval.
- (2) Before exercising its powers under subsection (1), the sports control body must, by written notice to the holder of the approval, notify the holder of the proposed variation of the conditions or proposed additional conditions.
- (3) The sports control body may, not earlier than 28 days after a notice is sent to the holder under subsection (2), vary the conditions or impose the additional conditions.
- (4) The sports control body must, in exercising its powers under subsection (3), consider representations made by the holder.
- (5) If the sports control body decides to vary the conditions or impose additional conditions, it must, as soon as practicable after making the decision, give a decision notice for the decision to the holder of the approval.

**69E Cancellation of approval**

- (1) A sports control body that grants an approval to use NT sports information may decide to cancel the approval if the body is satisfied of one or more of the following:
  - (a) that the holder of the approval has seriously breached a condition of the approval;
  - (b) that the holder has contravened this Act or the Regulations;
  - (c) any other matter prescribed by regulation.
- (2) As soon as practicable after making the decision, the sports control body must give a decision notice for the decision to the holder of the approval.

**69F Use of NT sports information with no approval or contravening condition of approval**

- (1) A betting service provider must not use NT sports information about a specified event unless the provider holds an approval to use the NT sports information from the sports control body under whose authority the event is to be held.

Maximum penalty: 100 penalty units or imprisonment for 12 months.

- (2) A betting service provider must not contravene a condition of an approval to use NT sports information.

Maximum penalty: 100 penalty units.

**Division 3 Review****69G Internally reviewable decisions**

- (1) An ***internally reviewable decision*** is a decision:
  - (a) to refuse an application under section 69C; or
  - (b) to vary a condition of an approval under section 69D; or
  - (c) to impose an additional condition on an approval under section 69D; or
  - (d) to cancel an approval under section 69E.



- (2) For subsection (1)(c), the following applies in relation to a decision to impose an additional condition about fees:
  - (a) if there was no fee payable under the original approval and the decision is that a fee is payable – the decision is not an internally reviewable decision;
  - (b) if the decision is to increase the amount of a fee payable – the decision is an internally reviewable decision.
- (3) An **affected person**, for an internally reviewable decision, is the applicant for, or holder of, the approval.

#### **69H Application for internal review**

- (1) An affected person for an internally reviewable decision may apply to the Chief Executive Officer for an internal review of the decision.
- (2) The application must be made:
  - (a) within 28 days after the decision notice for the decision is given to the affected person; or
  - (b) if the Chief Executive Officer extends the time allowed for making an application — within the additional time that the Chief Executive Officer allows.
- (3) The application must:
  - (a) be in the form approved by the Chief Executive Officer; and
  - (b) be accompanied by any fee prescribed by regulation; and
  - (c) state the grounds on which it is made and the facts relied on to establish the grounds.

#### **69J Effect of application on internally reviewable decision**

- (1) The making of an application under section 69H does not stay the operation of the internally reviewable decision.
- (2) However, the Chief Executive Officer may stay the operation of the decision pending completion of the review.

#### **69K Chief Executive Officer to consider application**

- (1) On receipt of an application under section 69H, the Chief Executive Officer must review the internally reviewable decision to which the application relates.

- (2) However, the Chief Executive Officer may reject the application without reviewing the decision if the Chief Executive Officer is satisfied that:
- (a) the application is frivolous or vexatious; or
  - (b) the application relates to an internally reviewable decision that was made more than 28 days before the application was made; or
  - (c) the application relates to a matter that is the subject of an application to a court or tribunal.

#### **69L Conducting and determining review**

- (1) In reviewing an internally reviewable decision, the Chief Executive Officer must:
- (a) take into account any matter that the Regulations require the Chief Executive Officer to take into account in reviewing the decision; and
  - (b) follow any procedures for review set out in the Regulations; and
  - (c) comply with the rules of natural justice.
- (2) After reviewing the decision, the Chief Executive Officer must:
- (a) affirm the decision; or
  - (b) vary the decision; or
  - (c) set aside the decision and substitute a new decision.

#### **69M Decision notice**

As soon as practicable after making a decision under section 69L, the Chief Executive Officer must give a decision notice to the applicant.

#### **69N Review by Tribunal**

- (1) The Tribunal has jurisdiction to review a decision of the Chief Executive Officer under section 69L (a ***tribunal reviewable decision***).
- (2) An ***affected person***, for a reviewable decision, is the person who was the affected person under section 69L for the internally reviewable decision to which the tribunal reviewable decision relates.

- 
- (3) An affected person for a tribunal reviewable decision may apply to the Tribunal for review of the decision.
- (4) In this section:

***Tribunal*** means the Civil and Administrative Tribunal.

*Note for section 69N*

*The Northern Territory Civil and Administrative Tribunal Act sets out the procedure for applying to the Tribunal for review and other relevant matters in relation to reviews.*

## 24 Part 10, Division 3 inserted

After section 165

*insert*

### Division 3 Racing and Betting Legislation Amendment Act 2016

#### 166 Definition

In this Division:

***commencement*** means the commencement of the *Racing and Betting Amendment Act 2016*.

#### 167 Principal clubs

An appointment, declaration or specification under section 42(2), as in force immediately before the commencement, is taken to be an appointment, declaration or specification under section 42.

#### 168 No offence if agreement in place

A person does not commit an offence against section 69F(1), even if the person does not hold an approval to use NT sports information, if the following conditions are complied with:

- (a) the NT sports information that the person uses is about a specified event that is a race at a meeting held or to be held at a racing venue in the Territory;
- (b) the person is a party to an agreement about the use of NT sports information, however described, including NT sports information about the event;
- (c) another party to the agreement is the sports control body under whose authority the event is to be held;

- (d) the information is used in accordance with the agreement;
- (e) the use occurs before the earlier of the following days:
  - (i) the day on which the agreement ceases to have effect;
  - (ii) the day that is 2 years after the commencement of the *Racing and Betting Amendment Act 2016*.

## **Part 4 Expiry of Act**

### **25 Expiry of Act**

This Act expires on the day after it commences.