

Serial 120
Racing and Wagering Bill 2024
Ms Lawler

A Bill for an Act to regulate racing and wagering and for related purposes

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- (b) an agent of a person mentioned in paragraph (a).

Note for section 4

The Interpretation Act 1978 contains definitions and other provisions that may be relevant to this Act.

5 Conduct constituting *contempt*

For this Act, the following conduct constitutes *contempt* of the Commission, the Tribunal or a panel of the Tribunal:

- (a) refusal, by a witness, when required by it at a hearing:
 - (i) to attend the hearing; or
 - (ii) to take an oath or affirmation; or
 - (iii) to answer a question; or
 - (iv) to produce a document or other thing;
- (b) contravening an undertaking given to it;
- (c) insulting, threatening, intimidating or obstructing:
 - (i) the Commission, the Tribunal or a panel of the Tribunal;
or
 - (ii) one of the members of the Commission or Tribunal or the Secretary of the Tribunal, in relation to the performance of their functions or the exercise of their powers under this Act;
- (d) interrupting, obstructing or hindering its proceeding;
- (e) creating, or taking part in creating, a disturbance at or near the place where it is sitting;
- (f) engaging in any other conduct that, under a law of the Territory, would constitute contempt in the face of a court if it were a court of record.

6 Meaning of *associate*

- (1) For this Act, a person is taken to be an ***associate*** of another person in the following circumstances:
 - (a) if the other person is a body corporate:
 - (i) the person holds or will hold a financial interest in the business of the other person that allows the person to exercise a significant influence over the business of the other person; or
 - (ii) the person is or will be entitled to exercise a power (whether in right of the person or on behalf of any other person) in the management or operation of the business of the other person that allows the person to exercise a significant influence over the business of the other person;
 - (b) if the other person is an individual – the person is a relative of the other person;
 - (c) in any case – the person holds or will hold a significant position in the business of the other person.
- (2) For this section, the Commission may determine whether an influence or a position is significant in the circumstances.
- (3) In this section:

financial interest, in relation to a business, means:

- (a) any share in the capital of the business; or
- (b) any entitlement to receive income derived from the business;
or
- (c) any entitlement to receive any money or valuable thing as a result of money advanced to the business.

power, in relation to a business, means any power, whether exercisable by voting or otherwise and whether exercisable alone or in association with others to:

- (a) participate in any directorial, managerial, or executive decision of the business; or
- (b) elect or appoint any person to a significant position in the business.

- (3) A person is not eligible to be appointed and hold office as a member of the Commission if the person:
 - (a) at any time within the previous 2 years:
 - (i) was an employee of a race club; or
 - (ii) had an interest, either directly or indirectly, in a business licensed under this Act or the *Racing and Betting Act 1983* (repealed); or
 - (iii) was a beneficiary of a business licensed under this Act or the *Racing and Betting Act 1983* (repealed); or
 - (iv) had management or control of an office or agency established under an agency agreement with the licensee of a totalisator licence issued under the *Totalisator Licensing and Regulation Act 2000*; or
 - (b) at any time within the previous 2 years, whether or not professionally, licensed or registered:
 - (i) was a rider in thoroughbred racing or a driver in harness racing; or
 - (ii) owned, trained or was otherwise directly involved, in greyhound racing; or
 - (c) at any time within the previous 3 years:
 - (i) became bankrupt; or
 - (ii) applied to take the benefit of a law for the relief of bankrupt or insolvent debtors; or
 - (iii) compounded with creditors or makes an assignment of the person's remuneration for their benefit.
- (4) The Minister may undertake any investigation the Minister considers necessary to assess a person's suitability to be appointed and hold office as a member of the Commission.
- (5) A member of the Commission must notify the Minister in writing if the member is no longer eligible to hold office.
- (6) Despite subsection (1)(a), the Minister may waive ineligibility under that subsection for a person if satisfied that:
 - (a) the person has other experience that would benefit the Commission; and

- (b) the person will not hold the position of Chair or Deputy Chair of the Commission.

20 Validity of decisions

A decision of the Commission is not invalid merely because of a defect or irregularity in, or in connection with, the appointment of a member of the Commission.

21 Term of office

- (1) The term of office of a member of the Commission is the period, not exceeding 3 years, specified by the Minister in the appointment.
- (2) A member is eligible for reappointment.

22 Leave of absence

- (1) The Minister may grant a member leave of absence, but the leave does not affect the member's term of office.
- (2) While on leave, a member must not exercise any powers or perform any functions as a member.

23 Vacancy in office

- (1) The office of a member of the Commission becomes vacant if:
 - (a) the member resigns by written notice given to the Minister; or
 - (b) the person is found guilty of an indictable offence, whether in the Territory or elsewhere; or
 - (c) the person becomes ineligible for appointment under section 19; or
 - (d) the Minister revokes the member's appointment.
- (2) The Minister must revoke the appointment of a member of the Commission if:
 - (a) the member is absent, except on leave granted by the Minister, from 3 consecutive meetings of the Commission or more; or
 - (b) the member contravenes section 28; or
 - (c) the Minister is satisfied that the member is guilty of misbehaviour; or

- (6) A resolution may be made by the Commission without a meeting if:
- (a) at least half the members give written agreement to the resolution; and
 - (b) notice of the resolution is given under procedures approved by the Commission.

26 Records

The Commission must keep records of its proceedings.

27 Annual report

- (1) The Commission must prepare and give the Minister an annual report on the Commission's operations during the financial year.
- (2) The report must be given within 3 months after the end of each financial year.
- (3) The report must include:
 - (a) a summary of the work of the Commission; and
 - (b) a report on its operations as a race control body; and
 - (c) the financial statements of the Racing and Wagering Fund.
- (4) The Minister must table a copy of the report in the Legislative Assembly within 6 sitting days after the Minister receives the report.

28 Conflict of interests

- (1) A member of the Commission must disclose any personal interest in any matter being considered, or about to be considered, by the Commission.
- (2) The disclosure must:
 - (a) be made as soon as possible after the member becomes aware of the relevance of the personal interest in the matter and before the matter is considered by the Commission; and
 - (b) explain the nature and extent of the personal interest and how it relates to the matter; and
 - (c) be recorded in the minutes of the Commission.
- (3) A member with a personal interest in a matter must not:
 - (a) be present when the Commission considers the matter; or

- (b) take part in a decision of the Commission on the matter.
- (4) For this section, a member has a personal interest in a matter if:
 - (a) the member has a direct or indirect financial interest in the matter; or
 - (b) the member has a personal, professional, commercial or other relationship with a person or entity and the nature of the relationship is likely to, or may reasonably be regarded as likely to, inhibit or prevent the member from exercising independent judgment about the matter; or
 - (c) there is a reasonable possibility that the member's participation in the consideration of a matter will give a person or entity associated with the member a commercial advantage.

Division 3 Director of Racing and Wagering

29 Appointment of Director

The Minister must, by *Gazette* notice, appoint a public sector employee to be the Director of Racing and Wagering.

30 Powers and functions of Director

- (1) The Director has the following functions:
 - (a) to investigate applicants and assess their applications for licences for determination by the Commission;
 - (b) to appoint and supervise inspectors and the performance of their functions;
 - (c) to appoint the Secretary to the Tribunal;
 - (d) to conduct investigations into complaints or other matters under this Act for determination by the Commission;
 - (e) to monitor compliance with this Act and prosecute persons for offences against this Act on behalf of the Commission;
 - (f) any other functions conferred on the Director under this or any other Act.
- (2) The Director has the powers necessary to perform the Director's functions.
- (3) The Director has the same powers as an inspector.

31 Delegation

- (1) The Director may delegate any of the Director's powers and functions under this Act to a public sector employee with the qualifications or experience appropriate to exercise the power or perform the function.
- (2) To avoid doubt:
 - (a) the Director cannot review or change a decision made by the Director's delegate; and
 - (b) a delegated power or function cannot be subdelegated.

Division 4 Inspectors

32 Appointment of inspectors

- (1) The Director may, in writing, appoint a person to be an inspector for this Act, with or without conditions or limitations.
- (2) For a person to be eligible for appointment as an inspector, the Director must be satisfied that:
 - (a) the person has demonstrable skills or experience to enable the person to exercise the powers and perform the functions of an inspector under this Act; and
 - (b) the person is a fit and proper person.
- (3) The Director may undertake any investigation the Director considers necessary to assess a person's suitability to be appointed as an inspector.
- (4) An inspector must perform the duties required by this Act and any other duties assigned by the Director, subject to any conditions or limitations in the inspector's appointment imposed by the Director.
- (5) A person located outside the Territory may be appointed as an inspector to exercise powers and perform functions under this Act outside the Territory when necessary or convenient.
- (6) An appointment under subsection (5) is valid for 6 months and may be renewed.

33 Powers and functions of inspectors

- (1) An inspector has the following functions:
 - (a) monitoring compliance with this Act;

(b) any other functions conferred on an inspector under this or any other Act.

(2) An inspector has the following powers:

- (a) to conduct inspections;
- (b) to conduct investigations on behalf of the Director for the Commission;
- (c) any other powers granted to an inspector under this or any other Act.

34 Accountability of inspectors

(1) An inspector must give written notice to the Director of all interests, pecuniary or otherwise, that the inspector has, or acquires, that conflict or could conflict with the proper performance of the inspector's functions.

(2) The Director must direct an inspector not to deal, or to no longer deal, with a matter if the Director becomes aware that the inspector has a potential conflict of interest in relation to a matter and the Director considers that the inspector should not deal, or should no longer deal, with the matter.

35 Prohibition on inspectors

(1) An inspector commits an offence if the inspector participates in a race or wagers with a licensee when prohibited from participating by any condition or limitation in the inspector's appointment.

Maximum penalty: 50 penalty units.

(2) An offence against subsection (1) is an offence of strict liability.

(3) It is a defence to a prosecution for an offence against subsection (1) if the inspector is acting under section 264.

Note for subsection (3)

The defendant has an evidential burden in relation to this defence (see section 43BU of the Criminal Code).

36 Identity card

(1) The Director must give an inspector an identity card stating the person's name and that the person is an inspector.

(2) The identity card must:

- (a) display a recent photograph of the inspector; and

- (b) state the card's date of issue and expiry (if any); and
 - (c) state a unique identity number; and
 - (d) be signed by the inspector.
- (3) This section does not prevent the issue of a single identity card to a person for this and another Act.

37 Loss of identity card

- (1) An inspector who loses an identity card must, in writing, report the loss to the Director.
- (2) The Director may issue an inspector a replacement for a lost identity card if satisfied that the inspector took reasonable steps to recover the lost card.

Note for subsection (2)

This could be done on the basis of the inspector's statutory declaration.

38 Return of identity card

- (1) A person commits an offence if the person:
- (a) ceases to be an inspector; and
 - (b) fails to return the person's identity card to the Director within 21 days after the cessation.

Maximum penalty: 50 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant has a reasonable excuse.

Note for subsection (3)

The defendant has an evidential burden in relation to this defence (see section 43BU of the Criminal Code).

39 Use of identity card

- (1) An inspector must carry the inspector's identity card when exercising a power under this Act.
- (2) An inspector must, on request, produce the inspector's identity card before exercising a power under this Act.

40 Cooling off period

For a period of 6 months after the day a person's appointment as the Director or an inspector ends:

- (a) the person must not work for a licensee; and
- (b) a licensee must not obtain work from the person.

Division 5 Miscellaneous matters

41 Giving or serving documents

- (1) A document, notice, direction or request may be given, delivered, served or lodged under this Act:
 - (a) by serving it on the recipient as authorised by section 25 of the *Interpretation Act 1978*; or
 - (b) by sending it to the recipient's email address as an attachment to an email.
- (2) Subject to evidence to the contrary, a document, notice, direction or request sent as mentioned in subsection (1)(b) is taken to be given to the recipient when it is sent to the recipient's email address.

Note for section 41

See section 25(2) to (4) of the Interpretation Act 1978 for when notices, directions or requests served as mentioned in subsection (1)(a) are taken to be served.

42 Guidelines

- (1) The Commission may make guidelines in relation to the operation and administration of this Act.
- (2) Without limiting subsection (1), the guidelines may relate to any of the following matters:
 - (a) applications for registration for race clubs;
 - (b) applications for licences;
 - (c) the obligations of race clubs and licensees and their agents and employees under this Act;
 - (d) compliance with and enforcement of this Act;
 - (e) complaints and disciplinary actions under this Act.

49 Delegation by race control body

- (1) A race control body may, in writing, delegate to a member of the body or an official of the body any of its powers and functions under this Act.

Note for subsection (1)

A power exercised or function performed by the delegate is taken to have been exercised or performed by the race control body.

- (2) To avoid doubt:
- (a) a race control body cannot review or change a decision made by the race control body's delegate; and
 - (b) a delegated power or function cannot be subdelegated.

50 Commission direction

- (1) The Commission may direct a race control body in the exercise of its powers and the performance of its functions.
- (2) The race control body must comply with any direction given by the Commission.

Division 2 Racing rules

51 Establishment of racing rules

- (1) The race control body for thoroughbred racing must establish or adopt the Rules of Thoroughbred Racing that apply in relation to thoroughbred racing.
- (2) The race control body for harness racing must establish or adopt the Rules of Harness Racing that apply in relation to harness racing.
- (3) The race control body for greyhound racing must establish or adopt the Rules of Greyhound Racing that apply in relation to greyhound racing.
- (4) A race control body may apply, adopt or incorporate, with or without changes, the whole or part of a document as in force or existing at a particular time or from time to time.

Examples for subsection (4)

1 The Australian Rules of Racing, published by Racing Australia.

2 The Greyhound Australasia Rules, published by Greyhounds Australasia Limited.

- (5) A race control body must publish any racing rules it establishes or adopts on its website.

52 Enforcement of racing rules

- (1) The racing rules may provide race control bodies and race clubs with the power to impose penalties or sanctions for:
- (a) any contravention or attempted contravention of the racing rules for which they are responsible; and
 - (b) any conduct that leads to a contravention or attempted contravention of those racing rules; and
 - (c) any aiding, abetting, counselling or procuring a contravention or attempted contravention of the racing rules.
- (2) The penalties and sanctions under the racing rules may include the following:
- (a) disqualifying, banning or suspending a person or animal from participating in racing conditionally, for a period of time or permanently;
 - (b) giving a reprimand or warning;
 - (c) imposing a fine not exceeding 650 penalty units;
 - (d) forfeiting of all or part of a fee or prize money, regardless of the amount.
- (3) A penalty or sanction under the racing rules may be imposed in combination with one or more other penalties or sanctions under those rules or this Act.
- (4) The racing rules may provide procedures in relation to:
- (a) the determination of liability for a penalty or sanction; and
 - (b) the imposition of a penalty or sanction; and
 - (c) the resolution of disputes arising under the racing rules.
- (5) All procedures referred to in subsection (4) must be fair to the parties involved.
- (6) A race control body and race club must act fairly when determining and imposing a penalty or sanction.

- (7) A fine imposed under the racing rules is a debt due and payable as follows:
 - (a) in relation to thoroughbred racing:
 - (i) if the Commission is the race control body for thoroughbred racing – to the Territory; or
 - (ii) in any other case – to the race control body for thoroughbred racing;
 - (b) in relation to harness racing – to the Territory;
 - (c) in relation to greyhound racing – to the Territory.

53 Compliance with racing rules

- (1) Race control bodies, race clubs and their officials and employees and other persons attending a racecourse must comply with the racing rules applicable to them.
- (2) The following persons must comply with the Rules of Thoroughbred Racing and the Rules of Harness Racing in relation to any conduct involving thoroughbred racing or harness racing:
 - (a) a trainer of a horse;
 - (b) a person employed or contracted by a trainer in connection with the training or care of a horse;
 - (c) an owner of a horse;
 - (d) a person authorised to nominate a horse for a race;
 - (e) a rider or driver of a horse;
 - (f) an agent of a rider or driver of a horse;
 - (g) a person who provides a service connected with the keeping, training or racing of a horse;
 - (h) any person registered or licensed by a race control body.
- (3) The following persons must comply with the Rules of Greyhound Racing in relation to any conduct involving greyhound racing:
 - (a) a trainer of a greyhound;
 - (b) a person employed or contracted by a trainer in connection with the training or care of a greyhound;

- (c) an owner of a greyhound;
- (d) a person authorised to nominate a greyhound for a race;
- (e) a person who provides a service connected with the keeping, training or racing of a greyhound;
- (f) any person registered or licensed by a race control body.

Division 3 Licensing and registration

54 Licence required for racecourse

The premises used for a racecourse must be licensed under this Act.

55 Application for licence

- (1) A person may apply to the Commission for a licence to operate premises as a racecourse.
- (2) The application must be:
 - (a) in the approved form; and
 - (b) accompanied by the fee prescribed by regulation; and
 - (c) accompanied by any information prescribed by regulation.

56 Issuing licence for racecourse

- (1) The Commission may issue a licence to a race club to operate premises as a racecourse if satisfied that the proposed racecourse:
 - (a) is financially sustainable, including having appropriate public liability insurance; and
 - (b) complies with any requirements prescribed by regulation.
- (2) The Commission must give the race club a decision notice as soon as practicable after making a decision on the application.

57 Registration of race clubs

- (1) The race control body may register a race club if satisfied that:
 - (a) the constitution of the race club provides that the revenue of the club may only be used for the objects and purposes of the club; and

- (b) the constitution of the race club prohibits the payment of dividends to the members of the club; and
 - (c) any other criteria for registration prescribed by regulation are met.
- (2) The race control body must revoke the registration of a race club if satisfied that:
- (a) the revenue of the race club is not being used only for the objects and purposes of the club; or
 - (b) the race club did not comply with its constitution; or
 - (c) any other criteria for revocation prescribed by regulation are met.

58 Approval of days for race meetings

- (1) A race meeting may only be held on a day approved by the race control body.
- (2) A registered race club must apply to the race control body for approval of the days for race meetings conducted by the race club.
- (3) An application under subsection (2) must be lodged with the race control body before the beginning of the financial year in which the race meeting is to be held.
- (4) The race control body may, by written notice to the race club, approve such number of days on which race meetings may be held as it thinks fit.
- (5) A copy of the notice of approval must be given to the Commission.
- (6) A race meeting commences at 8:00 am on the day on which it is to be held and ends at midnight of that day.

59 Offence related to race meeting

- (1) A race club commits an offence if:
 - (a) the race club conducts racing on a day; and
 - (b) the day is not approved by its race control body.

Maximum penalty: 20 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.

60 Postponement or abandonment of race meeting

- (1) A registered race club may postpone or abandon a race meeting if:
- (a) it is impossible or impracticable to hold the meeting or a part of the meeting because of adverse weather or an emergency; or
 - (b) the race control body consents to the postponement or abandonment.
- (2) A postponement or abandonment of a race meeting must be conducted in compliance with the racing rules applicable to it.

Note for subsection (2)

A race meeting can only be postponed to another race day approved by the race control body under section 58.

- (3) A postponement or abandonment may apply to all or part of a race meeting.
- (4) A postponement or abandonment takes effect from the time when the first public announcement of it is made on behalf of the race club.
- (5) If a race club postpones part of a race meeting until another day, the club may, with the approval of its race control body, stage another race or races on that day sufficient to complete what the race control body considers to be a normal race meeting for that club.

61 Continuation of wagering

- (1) If a race meeting starts and the race club conducting that meeting postpones or abandons the whole or part of the race meeting, the race club may allow wagering with licensees or investments in totalisators under the *Totalisator Licensing and Regulation Act 2000* to continue at the race club's premises in respect of events to be decided at other racecourses.
- (2) The wagering and investment may be allowed to continue only during the time that wagering and investment would otherwise be permitted.

62 Reports and financial records

- (1) Each race control body and race club must:
- (a) keep proper books of account and records in relation to its operations; and

- (b) prepare a statement of account and balance sheet audited by a person qualified and suitable to perform the audit acceptable to the Commission.
- (2) Each race control body, other than the Commission, must give the Commission an annual report on its operations as soon as practicable after the end of the financial year of the race control body.
- (3) The annual report must include the race control body's audited statement of account and balance sheet in accordance with applicable Australian accounting standards.
- (4) The Commission may, at any time, require a race control body and race club to give the Commission a report on such matters as it thinks fit.
- (5) A race control body that receives a request under subsection (4) must give the report within the time specified by the Commission.

Note for section 62

The Commission must report on its operations as a race control body in its annual report under section 27.

63 Review by race control body

- (1) A race control body must, at least once in each year, review the conduct of race meetings conducted or held by each race club registered by it.
- (2) A race control body must cancel the remainder of the allotment of racing dates in respect of a race club if satisfied that the race meetings of the race club:
 - (a) were not held in good faith; or
 - (b) were not held for the purpose of racing at the racecourse or wagering on a race at another racecourse; or
 - (c) were held contrary to this Act, the racing rules or the public interest.
- (3) If a race club cancels an allotment of race meetings, the race control body must not allot any further race meetings for the race club until it is satisfied that race meetings will be conducted by the race club in accordance with this Act.

64 Duties of race club

- (1) A race club that holds race meetings must take reasonable steps to:
 - (a) control, supervise, regulate and promote its race meetings; and
 - (b) develop and implement policies for:
 - (i) paragraph (a); and
 - (ii) the protection of the public interest; and
 - (iii) the welfare of animals used in the racing industry.
- (2) A race club must ensure that no person offers or receives wagers at its racecourse without a licence authorising that conduct.
- (3) A race club that holds race meetings must fix the areas where and the hours during which wagering licensees may conduct their business.
- (4) Nothing in this Act authorises a race club to impose:
 - (a) conditions on wagering licensees other than those conditions allowed under subsection (3); or
 - (b) a fee or charge for allowing a wagering licensee to conduct business on a racecourse under its control, unless the fee is authorised, in writing, by the Commission.

65 Agreements with licensees under *Totalisator Licensing and Regulation Act 2000*

- (1) A race control body or a race club may enter into an agreement with a person who holds a licence under the *Totalisator Licensing and Regulation Act 2000* for the purpose of operating a totalisator or conducting totalisator wagering under the person's licence.
- (2) If a race control body or a race club enters into an agreement under subsection (1), section 40 of the *Totalisator Licensing and Regulation Act 2000* applies in relation to the agreement.

66 Charges payable to Commission

- (1) If the Commission is a race control body, the Commission may, by written notice, require a race club within its jurisdiction to pay to it reasonable fees to meet the expenses of services rendered by the Commission to the race club.

- (2) The fees may be required from time to time and must be paid within the times specified by the Commission in the notice.

67 Certificate evidence

A certificate purporting to be signed by the Chair of the Commission specifying that a specified amount is payable by a race club under section 66 is evidence of the matter specified in the certificate.

Division 4 Dissolution of race club

68 Dissolution if deregistered

- (1) A race club that is no longer registered must take all reasonable steps to dissolve itself in accordance with:
 - (a) its constitution; and
 - (b) this Act; and
 - (c) any other law applicable to the dissolution.
- (2) If there is an inconsistency between the constitution of a race club in relation to its dissolution and this Act, this Act prevails to the extent of the inconsistency.
- (3) The Commission may, in writing, allow a race club to postpone its dissolution for a period not exceeding 12 months from the date on which the club ceased to be registered if satisfied that:
 - (a) the financial records of the race club are adequate and accurate; and
 - (b) the assets of the race club are secure.
- (4) The Commission may allow a race club further postponements of its dissolution for:
 - (a) subsequent periods not exceeding 6 months at a time; or
 - (b) an indefinite period specified by the Commission if the race club and its officers or members caused no delay in the race club's dissolution.
- (5) If a race club fails to complete its dissolution within the period required under this section, on the day after the period expires:
 - (a) the race club is automatically dissolved; and
 - (b) the assets of the race club are forfeited to the Territory.

- (6) Subject to any Act of the Commonwealth, a thing forfeited to the Territory under this Act becomes the public property of the Territory and extinguishes all other interests in the thing.

Notes for subsection (6)

- 1 *The Personal Property Securities Act 2009 (Cth) protects security interests in goods.*
- 2 *The sale and disposal of public property is also governed by the Financial Management Act 1995.*

- (7) Any amount realised from the forfeited assets of a race club must be paid as follows:
- (a) first for the payment of all debts and liabilities, if any, of the race club;
- (b) second for any reasonable expenses incurred by the race control body in relation to the dissolution of the race club;
- (c) any remaining balance to the Territory.

69 Notice to Commission

A race control body, other than the Commission, must give written notice to the Commission if it revokes the registration of a race club as soon as practicable after the revocation.

70 Offence of failing to give notice

- (1) A person commits an offence if the person:
- (a) is a race control body, other than the Commission; and
- (b) fails to give notice in accordance with section 69.

Maximum penalty: 35 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant has a reasonable excuse.

Note for subsection (3)

The defendant has an evidential burden in relation to this defence (see section 43BU of the Criminal Code).

71 Appointment of administrator

- (1) A race control body may, by written notice to a race club, appoint an administrator to administer the affairs of the race club if:
 - (a) the race control body is satisfied that the race club has contravened this Act; and
 - (b) the appointment is approved by:
 - (i) the Commission; or
 - (ii) if the race control body is the Commission – the Minister.
- (2) The notice of appointment must specify:
 - (a) the date of appointment; and
 - (b) the appointee's name; and
 - (c) the appointee's business address.
- (3) A race control body may make rules, not inconsistent with this Act, to define the duties, responsibilities and authority of an administrator appointed under subsection (1).

72 Effect of appointment

- (1) On the appointment of an administrator for a race club:
 - (a) the members of the governing board or committee of the race club cease to hold office; and
 - (b) the administrator may terminate a contract of employment with the race club; and
 - (c) the administrator may terminate a contract for the provision of secretarial or administrative services for the race club; and
 - (d) the administrator may terminate a contract for the provision of other services to the race club.
- (2) The administrator has the functions of the governing board or committee of the race club, including the board's or committee's powers of delegation.
- (3) An officer of the race club must not be appointed or elected while the administrator is in office except as provided by this Division.

73 Revocation of appointment

- (1) An administrator holds office until the appointment is revoked.
- (2) The race control body may, by written notice, revoke the appointment of an administrator.
- (3) If a liquidator of a race club is appointed, the appointment of an administrator of the race club is automatically revoked.
- (4) As soon as practicable after the revocation of an administrator's appointment, the administrator must prepare and submit a report to the race control body showing how the administration was carried out and, for that purpose, an administrator has access to the race club's records and documents.
- (5) On providing the report under subsection (4) and accounting fully in relation to the administration of the race club to the satisfaction of the race control body, the administrator is released from further duty to account in relation to the administration of the race club other than on account of fraud, dishonesty, negligence or wilful failure to comply with this Act.
- (6) Before revoking the appointment of an administrator of a race club, the race control body must:
 - (a) appoint another administrator; or
 - (b) ensure that members of the governing board or committee of the race club are elected in accordance with the constitution of the race club at a meeting convened by the administrator in accordance with the constitution; or
 - (c) appoint members to the governing board or committee of the race club.
- (7) Elected members of the governing board or committee or members of the governing board or committee appointed under subsection (6):
 - (a) take office on the revocation of the administrator's appointment; and
 - (b) in the case of members appointed under subsection (6)(c), hold office, subject to this Act, until the next annual general meeting of the race club after the revocation of the administrator's appointment.

74 Expenses of administration

- (1) The expenses of and incidental to the conduct of the affairs of a race club by an administrator are payable from the race club's funds.
- (2) Those expenses include:
 - (a) if the administrator is not a public sector employee – remuneration of the administrator at a rate approved by the Commission; or
 - (b) if the administrator is a public sector employee – the amount that the Commission certifies is to be paid to the Territory as repayment of the administrator's remuneration.
- (3) An amount certified under subsection (2)(b) is a debt due and payable to the Territory.
- (4) An administrator has, in relation to the expenses specified in subsection (1), the same priority on the winding up of a race club as the liquidator of an association under the *Associations Act 2003*.

75 Liabilities arising from administration

- (1) The administrator is liable for any loss the race club incurs because of the administrator's fraud, dishonesty, negligence or intentional failure to comply with this Act or the constitution of the race club.
- (2) An administrator is not liable for any loss incurred by a race club, other than under subsection (1), but must account for the loss in the report under section 73(4).

76 Additional powers of Commission

- (1) If the race control body appoints members of the governing board or committee of a race club under section 73(6)(c), the Commission may, by written notice to the race club:
 - (a) declare that this section applies to the race club for the period specified in the notice; and
 - (b) specify the terms and conditions on which all or any of the members of the governing board or committee hold office.
- (2) While this section applies to the race club, the Commission may do any of the following:
 - (a) remove or appoint members of the governing board or committee;

- (b) vary, revoke or substitute a term or condition specified under subsection (1)(b);
 - (c) suspend or vary a provision of the race club's constitution.
- (3) The Commission may, by written notice to the race club, extend the time for which this section is to apply to the race club.

77 Charges payable to Commission

- (1) The Commission may, by written notice, require a race club to pay amounts to meet the expenses of services rendered by the Commission to the race club.
- (2) The race club must pay to the Racing and Wagering Fund any amount required to be paid within the time specified in the notice.
- (3) In an action brought for the recovery of money payable under subsection (2), a certificate purporting to be signed by the Chair or other person authorised by the Commission specifying that an amount is due and payable by a race club is evidence of the matters contained in the certificate.
- (4) In addition to any other discipline or sanction, the Commission may suspend the registration of a race club until payment under subsection (2) is made.

78 Stay of proceedings

- (1) If a race control body appoints an administrator to conduct the affairs of a race club, no person may begin or continue a proceeding in a court against the race club until the administrator's appointment is revoked except with the leave of the Supreme Court and in accordance with any terms and conditions the Court may impose.
- (2) A person intending to apply for leave of the Court under subsection (1) must give the race control body at least 10 days' notice of that intention.

79 Administrator to report to race control body

On the receipt of a request from the race control body, the administrator of a race club must, without delay, prepare and give to the race control body a report showing how the administration is being carried out.

Division 5 Other offences related to racing

80 Unlicensed racecourse

- (1) A person commits an offence if:
- (a) the person intentionally uses a place as a racecourse; and
 - (b) the place is not licensed for that purpose.

Maximum penalty: 100 penalty units.

- (2) Strict liability applies to subsection (1)(b).

81 Failure to report

- (1) A race control body or race club commits an offence if it fails to give a report as required under section 62.

Maximum penalty: 35 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant has a reasonable excuse.

Note for subsection (3)

The defendant has an evidential burden in relation to this defence (see section 43BU of the Criminal Code).

82 Unlawful racing

- (1) A person commits an offence if the person conducts a race meeting contrary to this Act.

Maximum penalty: 500 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.

83 Occupier allowing unlawful racing

- (1) A person commits an offence if the person:
- (a) is an occupier of a place; and
 - (b) allows another person to conduct a race meeting in that place contrary to this Act.

Maximum penalty: 500 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.

84 Permitting unlicensed bookmaker at racecourse

A race club commits an offence if:

- (a) it intentionally permits a person to be present at its racecourse; and
- (b) the person conducts the business of wagering and the race club is reckless in relation to that conduct; and
- (c) the person is not licensed to engage in that conduct and the race club is reckless in relation to that circumstance.

Maximum penalty: 500 penalty units.

Division 6 Right of appeal

85 Decisions with no right of appeal

Despite any other provision of this Act, no appeal may be made from a decision under any racing rules that:

- (a) imposes a fine not exceeding the amount prescribed by regulation; or
- (b) concerns the eligibility of an animal to race or the conditions under which an animal can race; or
- (c) disqualifies or suspends an animal from racing, except where that disqualification or suspension is combined with a penalty or other sanction imposed on a person; or
- (d) is not appealable under the applicable racing rules.

86 Right of appeal

- (1) A person may appeal a decision in respect of that person or an animal owned by that person made by:
 - (a) a steward of a race club; or
 - (b) a race club; or
 - (c) a race control body.
- (2) Subject to subsection (3), an appeal of a decision made by a steward of a race club must be made to the race control body.

- (3) An appeal of a decision made by a steward of a race club must be made to the Tribunal if the decision:
 - (a) imposes a fine greater than the amount prescribed by regulation; or
 - (b) imposes on a person a disqualification or suspension for a period longer than 3 months; or
 - (c) imposes on an animal a disqualification or suspension and includes a penalty or sanction on a person; or
 - (d) warns off the person for more than 12 race meetings; or
 - (e) imposes on the person a fine greater than the amount prescribed by regulation combined with a disqualification or suspension exceeding 1 month.
- (4) An appeal of a decision made by a race club or a race control body must be made to the Tribunal.
- (5) If 2 or more appeals arising out of the same incident or incidents are made to the Tribunal and to a race control body, the appeals must be heard by the Tribunal.

87 Manner of appeal

- (1) An appeal under this Division is commenced by lodging a notice of appeal and the prescribed fee with:
 - (a) in the case of an appeal to a race control body – the secretary of the race control body; and
 - (b) in the case of the Tribunal – the Secretary of the Tribunal.
- (2) A notice of appeal must be lodged not later than 7 days after the appellant receives notice of the decision.

Division 7 Appeals to race control body

88 Appeals committee

- (1) A race control body, other than the Commission, must establish an appeals committee to hear appeals made to the race control body.
- (2) A race control body may establish rules determining appeals under this Division including:
 - (a) suspending application of the decision appealed against pending determination of the appeal; and

- (b) representation of the parties to an appeal; and
- (c) the manner in which evidence is to be heard or received; and
- (d) the calling of witnesses.

89 Appeal procedure

- (1) The appeals committee must hear and determine appeals to the race control body under this Act in accordance with the procedures and rules established by the race control body.
- (2) On the hearing of an appeal, the appeals committee may:
 - (a) adjourn the appeal; or
 - (b) uphold, reverse or vary a decision appealed against; or
 - (c) set aside, vary, suspend, decrease or increase a fine or penalty imposed; or
 - (d) refer the matter for rehearing to the steward or the race club whose decision is appealed against; or
 - (e) order that the whole or part of the fee lodged under section 87(1) be refunded; or
 - (f) make such other order, including as to costs, as it thinks fit.
- (3) The determination of an appeal by an appeals committee is final and conclusive.

Division 8 Racing Appeals Tribunal

Subdivision 1 Establishment of Racing Appeals Tribunal

90 Northern Territory Racing Appeals Tribunal

- (1) The Northern Territory Racing Appeals Tribunal is established.
- (2) The Tribunal:
 - (a) is a body corporate with perpetual succession; and
 - (b) is capable of suing and being sued.

91 Functions of Tribunal

The Tribunal has the following functions:

- (a) to hear appeals under this Part;
- (b) to make determinations of fact in relation to those appeals;
- (c) to carry out such other functions as are conferred on it under this Act or any other law of the Territory.

92 Powers of Tribunal

- (1) Subject to this Act, the Tribunal has the power to do anything necessary to perform its functions under this Act.
- (2) Without limiting the generality of subsection (1), the Tribunal has the following powers:
 - (a) to regulate its affairs;
 - (b) to hold hearings and establish procedures and rules for those hearings;
 - (c) to exercise any other power given to the Tribunal under this Act.

93 Composition of Tribunal

- (1) The Tribunal consists of at least 4 and not more than 8 members, including a Chair and Deputy Chair, appointed by the Minister by *Gazette* notice.
- (2) A person must be eligible under section 94 to be appointed and hold office as a member.
- (3) The exercise of the powers or the performance of the functions of the Tribunal is not affected by reason only of a vacancy in the office of a member.

94 Eligibility to hold office

- (1) A person is eligible to hold office as a member of the Tribunal if the person:
 - (a) has demonstrable skills, knowledge or experience to enable the person to exercise the powers and perform the functions related to appeals; and
 - (b) is not ineligible under subsection (2); and

- (c) is a fit and proper person; and
- (d) resides in the Territory, unless the Minister grants an exception.

Note for subsection (1)(a)

The skills, knowledge or experience need not be limited to Australia.

- (2) A person is not eligible to appointed or hold office as a member of the Tribunal if the person:
 - (a) at any time within the previous 2 years, whether or not professionally, licensed or registered:
 - (i) was a member of the committee, or an employee, of a race club; or
 - (ii) had an interest, either directly or indirectly, in a business licensed under this Act; or
 - (iii) had management or control of an office or agency established under an agency agreement with the licensee of a totalisator licence issued under the *Totalisator Licensing and Regulation Act 2000*; or
 - (b) at any time within the previous 2 years:
 - (i) was a rider in thoroughbred racing or driver in harness racing; or
 - (ii) trained horses or greyhounds for racing; or
 - (c) at any time within the previous 3 years:
 - (i) became bankrupt; or
 - (ii) applied to take the benefit of a law for the relief of bankrupt or insolvent debtors; or
 - (iii) compounded with creditors or makes an assignment of the person's remuneration for their benefit.
- (4) The Minister may undertake any investigation the Minister considers necessary to assess a person's suitability to be appointed as a member of the Tribunal.
- (5) A member of the Tribunal must notify the Minister in writing if the member is no longer eligible to hold office.

95 Chair and Deputy Chair

- (1) The Minister must, by *Gazette* notice, appoint the Chair and Deputy Chair of the Tribunal.
- (2) The following persons are eligible to be appointed under subsection (1):
 - (a) a Supreme Court Judge;
 - (b) a Local Court Judge;
 - (c) a legal practitioner.

96 Powers and functions of Chair and Deputy Chair

- (1) The Chair of the Tribunal has the power to do anything necessary or convenient to be done for, or in connection with the administration of the affairs of the Tribunal and the performance of the Chair's functions.
- (2) The Chair presides at all hearings of the Tribunal.
- (3) The Deputy Chair has the powers and performs the functions of the Chair when:
 - (a) there is a vacancy in the office of the Chair; or
 - (b) the Chair is unable to exercise the powers or perform the functions of the Chair.

97 Delegation by Chair

The Chair may, in writing, delegate to a member any of the powers and functions of the Deputy Chair if:

- (a) there is a vacancy in the office of the Deputy Chair; or
- (b) the Deputy Chair is unable to exercise the powers or perform the functions of the Deputy Chair.

98 Secretary of Tribunal

- (1) The Director must appoint a public sector employee to be Secretary of the Tribunal.
- (2) The Secretary of the Tribunal has the powers and functions assigned by the Tribunal.

99 Validity of decisions

A decision of the Tribunal is not invalid merely because of a defect or irregularity in, or in connection with, the appointment of a member of the Tribunal.

100 Term of office

- (1) The term of office of a member of the Tribunal is the period, not exceeding 3 years, specified by the Minister in the appointment.
- (2) A member is eligible for reappointment.
- (3) The Minister may grant a member leave of absence, but the leave does not affect the member's term of office.
- (4) While on leave, a member must not exercise any powers or perform any functions as a member.

101 Vacancy in office

- (1) The office of a member of the Tribunal becomes vacant if:
 - (a) the member resigns by written notice given to the Minister; or
 - (b) the person is found guilty of an indictable offence, whether in the Territory or elsewhere; or
 - (c) the person becomes ineligible to hold office under section 94; or
 - (d) the Minister revokes the member's appointment.
- (2) The Minister must revoke the appointment of a member of the Tribunal if:
 - (a) the member contravenes section 102; or
 - (b) the Minister is satisfied that the member is guilty of misbehaviour; or
 - (c) the member is physically or mentally incapable of satisfactorily performing the functions of the office.

102 Conflict of interests

- (1) A member of the Tribunal must disclose any personal interest in any matter being considered or heard, or about to be considered or heard, by the Tribunal.

- (2) The disclosure must:
 - (a) be made before the matter is considered or heard by the Tribunal; and
 - (b) explain the nature and extent of the personal interest and how it relates to the matter.
- (3) A member with a personal interest in a matter must not:
 - (a) be present when the Tribunal considers or hears the matter; or
 - (b) take part in a decision of the Tribunal on the matter.
- (4) For this section, a member has a personal interest in a matter if:
 - (a) the member has a direct or indirect financial interest in the matter; or
 - (b) the member has a personal, professional, commercial or other relationship with a person or entity and the nature of the relationship is likely to, or may reasonably be regarded as likely to, inhibit or prevent the member from exercising independent judgment about the matter; or
 - (c) there is a reasonable possibility that the member's participation in the consideration of a matter will give a person or entity associated with the member a commercial advantage.

Subdivision 2 Appeals to Tribunal

103 Appeal procedure

- (1) On receipt of a notice of appeal, the Secretary of the Tribunal must:
 - (a) give the notice to the Chair of the Tribunal; and
 - (b) give a copy of the notice to the steward, race club or race control body whose decision is the subject of the appeal; and
 - (c) obtain a transcript or record of the evidence taken at the hearing in respect of the decision appealed against and serve a copy of it on the appellant.

- (2) An appellant must, not later than 7 days after receiving the transcript or record of evidence furnished under subsection (1)(c), lodge with the Secretary written notice of the grounds of appeal, and, except by leave of the Tribunal, the appeal must be limited to those grounds.
- (3) On receiving a notice under subsection (2), the Secretary must:
 - (a) forward a copy of the notice to the steward, race club or race control body whose decision is the subject of the appeal; and
 - (b) forward a copy of the notice and the transcript or record of the evidence taken at the hearing to the Chair.
- (4) Subject to subsection (5), the date, time and place for the hearing of an appeal must be fixed by the Chair, and not less than 7 days written notice of that date must be given by the Secretary to:
 - (a) the appellant; and
 - (b) the steward, race club or race control body whose decision is the subject of the appeal; and
 - (c) any other person the Chair may direct.
- (5) The Tribunal must commence hearing an appeal not later than 28 days after the lodging of the notice of the grounds of appeal under subsection (2).
- (6) Despite subsections (3), (4) and (5), the Tribunal may, by order, extend any period of time specified by this section if, in the opinion of the Tribunal, special circumstances so require.

104 Hearing of appeal

- (1) The Chair of the Tribunal may determine the procedures for the hearing of appeals by the Tribunal.
- (2) The hearing of an appeal is to be conducted by a panel of the Tribunal consisting of the following 3 members:
 - (a) the Chair;
 - (b) 2 other members chosen by the Chair.

Note for subsection (2)

The Deputy Chair has the power and functions of the Chair when the Chair is unable to conduct a hearing under section 96(3).

- (3) The members of the panel must be knowledgeable of the racing industry that is the subject of the appeal.

- (4) If both the Chair and Deputy Chair are unable to conduct a hearing:
 - (a) the Chair must choose the 3 members to sit on the panel; and
 - (b) the Chair must appoint one of the 3 members as acting Deputy Chair to preside for the hearing.
- (5) An appeal is to be heard at a date, time and place determined by the Chair.
- (6) Unless the panel determines otherwise, the hearing of an appeal is open to the public.
- (7) If, during the hearing of an appeal, a member of the panel is unable or unavailable to exercise the powers or perform the functions of a member, or the member's appointment is terminated, the remaining members of the panel may continue to hear the appeal.
- (8) The panel may exercise the powers and must perform the functions of the Tribunal for the purposes of the hearing.

105 Expedited hearing

- (1) If the panel of the Tribunal considers that an appeal should be heard and determined as a matter of urgency, it may, with the consent of the appellant expedite the hearing by:
 - (a) dispensing with a procedural requirement; or
 - (b) abridging the time required for the doing of a thing.
- (2) The panel may rely on such evidence as is available at the expedited hearing.

106 Appeal not to be withdrawn

- (1) An appeal may not be withdrawn without leave of the Tribunal or the panel of the Tribunal.
- (2) If granting leave, the Tribunal or panel may impose on an appellant such conditions as to costs or otherwise as it thinks fit.

107 Stay of proceedings

Subject to section 108(3), the Chair of the Tribunal may, pending the determination of an appeal, order, subject to such conditions as the Chair thinks fit, a stay of the execution of the penalty, decision or order appealed against.

108 Stay of decision

- (1) An application for an appeal under this Division does not stay the operation of the decision.
- (2) Despite subsection (1), the Chair of the Tribunal may stay the operation of the decision pending completion of the appeal.
- (3) In determining whether or not to stay the operation of a decision, the Chair must:
 - (a) invite submissions from the appellant and the steward, race club or the race control body whose decision is the subject of the appeal; and
 - (b) take into account any submissions received.

109 Appearance

- (1) The parties to an appeal are entitled to appear and to be represented by a legal practitioner during appeal proceedings.
- (2) A person summoned to attend or who appears as a witness in appeal proceedings may be represented by a legal practitioner.

110 Evidence

- (1) The Tribunal, including a panel of the Tribunal, is not bound by the rules of evidence and may inform itself of any matter in such manner as it thinks fit.
- (2) Evidence is to be given orally at a hearing, unless the Tribunal or panel of the Tribunal otherwise directs.

111 Power to issue summons

The Tribunal or a panel of the Tribunal may, on the application of a party to a proceeding or on its own initiative, issue a summons requiring a person to appear before the panel at a specified time and place to give evidence or produce evidentiary material.

112 Power to deal with contempt

The Tribunal or a panel of the Tribunal may order a person to leave the place of a hearing and may continue the proceeding in the person's absence if the person engages in contempt.

113 Determination of appeal

- (1) On the hearing of an appeal, the Tribunal or a panel of the Tribunal may, by order, do one or more of the following:
- (a) adjourn the appeal;
 - (b) uphold, reverse or vary a decision appealed against;
 - (c) set aside, vary, suspend, decrease or increase a fine, penalty or other sanction imposed;
 - (d) refer the matter for rehearing to the steward, race club or race control body whose decision is the subject of the appeal;
 - (e) order that the whole or part of the appeal fee lodged under section 87(1) be refunded;
 - (f) make such order as to the costs of an appeal as it thinks fit;
 - (g) make such other order as it thinks fit.
- (2) On the determination of an appeal, the Tribunal or the panel of the Tribunal must notify the parties of its determination.

114 Costs

A costs order under section 113(f) may be entered as a judgment with the Local Court and is enforceable accordingly.

115 Appeal final

A determination of the Tribunal, including a panel of the Tribunal, is final and conclusive.

Part 4 Licences related to wagering

Division 1 Types of licences

116 Types of licences

The following licences are established:

- (a) an on-course bookmaker licence;
- (b) a betting exchange licence;
- (c) a sports bookmaker licence;
- (d) a key person licence.

117 Offence of wagering without licence

- (1) A person commits an offence if the person:
- (a) intentionally conducts the business of wagering; and
 - (b) does not hold a licence authorising that conduct.

Maximum penalty: 500 penalty units.

- (2) Strict liability applies to subsection (1)(b).

118 Licence offence

- (1) A person commits an offence if:
- (a) the person is a wagering licensee; and
 - (b) the person intentionally conducts wagering; and
 - (c) the wagering is not authorised by the licence.

Maximum penalty: 2 500 penalty units.

- (2) Strict liability applies to subsection (1)(a) and (c).

- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.

- (4) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3).

119 On-course bookmaker licence

- (1) An on-course bookmaker licence is required to conduct wagering with members of the public at a racecourse.

- (2) An on-course bookmaker licence authorises the licensee to conduct wagering with members of the public at a racecourse in accordance with subsections (3) to (6).

- (3) The wagering must be conducted only:

- (a) in the areas and in the places at an approved racecourse fixed by the controlling race club; and

- (b) during the hours fixed by the controlling race club.

- (4) The wagering must be conducted with the customer in person, unless the Director endorses the licence to authorise the receipt of wagers by telephone at an approved racecourse.
- (5) The wagering must be conducted only for a thoroughbred, harness or greyhound race that is conducted in compliance with the law applicable in the jurisdiction where the race is conducted.
- (6) The wagering must be conducted only by the following persons:
 - (a) the on-course bookmaker licensee;
 - (b) any person who:
 - (i) is engaged by the licensee as an employee or agent; and
 - (ii) holds a key person licence; and
 - (iii) is authorised under the licence to conduct the business.

120 Agent of on-course bookmaker

- (1) An on-course bookmaker licensee must not engage an agent to act for the licensee without permission given by the Commission.
- (2) A person commits an offence if:
 - (a) the person intentionally:
 - (i) conducts wagering as an agent for an on-course bookmaker licensee; or
 - (ii) conducts the business of being an agent for an on-course bookmaker licensee; and
 - (b) the person does not have permission under section 134 authorising that conduct.

Maximum penalty: 100 penalty units.

- (3) Strict liability applies to subsection (2)(b).

121 Betting exchange licence

- (1) A betting exchange licence is required to operate a system that:
 - (a) places and receives wagers between persons through a betting exchange; and

- (b) transmits and matches wagers with opposing wagers through a betting exchange.
- (2) A betting exchange licence authorises a person to conduct the business of a betting exchange in accordance with subsections (3) and (4).
- (3) The wagering must be conducted only for the following:
 - (a) a thoroughbred, harness or greyhound race;
 - (b) a sporting event declared by the Commission under section 167(1);
 - (c) a novelty event that complies with rules issued by the Commission.

Example for subsection (1)(c)

The novelty event could be a contingency such as what colour clothing will a specific celebrity wear to a particular public event.

- (4) The wagering must be conducted only:
 - (a) by using a method:
 - (i) referred to in section 5(1)(b) of the *Interactive Gambling Act 2001* (Cth); or
 - (ii) prescribed by regulation; or
 - (b) at premises operated by the licensee at a racecourse with the consent of the race club responsible for the racecourse; or
 - (c) if the licensee also holds a licence under the *Totalisator Licensing and Regulation Act 2000* – at retail and other premises allowed under that licence.

122 Sports bookmaker licence

- (1) A sports bookmaker licence is required to conduct wagering with members of the public in relation to any of the following:
 - (a) a race;
 - (b) a sporting event declared by the Commission under section 167(1);

- (b) have a sound and stable financial background;
- (c) have sufficient business ability to establish and maintain the business proposed to be conducted.

130 Eligibility criteria – betting exchange licence and sports bookmaker licence

- (1) To be eligible to apply for and hold a betting exchange licence or a sports bookmaker licence, an applicant must meet the following criteria:
 - (a) in the case of an individual – be at least 18 years of age;
 - (b) have a sound and stable financial background;
 - (c) in the case of a body corporate – have or have arranged a satisfactory ownership, trust or corporate structure;
 - (d) have or be able to obtain:
 - (i) the financial resources sufficient to ensure the financial viability of the business proposed to be conducted under the licence; and
 - (ii) the services of persons who have sufficient experience in the management and operation of the business;
 - (e) have sufficient business ability to establish and maintain the business proposed to be conducted;
 - (f) have no association with any person or body with undesirable or unsatisfactory financial resources;
 - (g) have no person involved in the management or operation of the business proposed to be conducted have association with any person or body with undesirable or unsatisfactory financial resources;
 - (h) have each officer or person determined to be associated or connected with the ownership, administration or management of the operations or business of the applicant be a suitable person to act in that capacity.
- (2) When considering suitability under subsection (1)(h), the Commission must consider the following criteria:
 - (a) whether the person is a fit and proper person, having regard to character, honesty and integrity;

- (b) whether the person has any business association with any person, body or association who or which, in the opinion of the Commission, is a fit and proper person, having regard to character, honesty and integrity or has undesirable or unsatisfactory financial resources.
- (3) A person who holds a licence under the *Totalisator Licensing and Regulation Act 2000* is taken to be eligible to apply for a betting exchange licence or sports bookmaker licence.

Division 3 Application process

131 Application for licence

- (1) An application for a licence must be made to the Commission.
Note for subsection (1)
Only an individual may apply for an on-course bookmaker licence or a key person licence.
- (2) The application must be:
 - (a) in the approved form; and
 - (b) accompanied by the fee prescribed by regulation; and
 - (c) accompanied by any information prescribed by regulation.
- (3) During the application process, an applicant for a betting exchange licence or sports bookmaker licence must, on request, give the Commission a copy of the proposed initial terms and conditions of wagering under the licence.

132 Nominee

- (1) An applicant who is applying for a betting exchange licence or sports bookmaker licence must nominate an individual to be a nominee and to represent the applicant for the purposes of its operation under the licence.
Note for subsection (1)
Individual applicants can nominate themselves to be the nominee.
- (2) It is a condition of a betting exchange licence and sports bookmaker licence that the licensee have an individual resident in the Territory as the nominee.
- (3) The nominee must be an individual approved by the Commission, whose approval will not be unreasonably withheld.

- (4) A licensee must not change the nominee without the approval of the Commission without reasonable excuse.

Note for subsection (4)

The sudden resignation of a nominee would be a reasonable excuse.

- (5) If a licensee changes the nominee without approval of the Commission because of a reasonable excuse, the licensee must seek the Commission's approval for the nominee as soon as practicable.
- (6) The nominee must, during business hours:
- (a) be contactable by the Director or the Commission; and
 - (b) be available to provide access to the premises of the licensee by the Director, the Commission or an inspector.
- (7) If the nominee is or is expected to be absent from the Territory or is not readily contactable, the licensee must ensure that an alternative nominee is designated by the licensee, approved by the Commission and able to perform the functions of nominee.

133 Application to renew licence

- (1) A licensee may renew the licence by application to the Commission.
- (2) An application to renew a licence must:
- (a) be in the approved form; and
 - (b) be accompanied by the fee prescribed by regulation.

134 Application as agent of on-course bookmaker

- (1) An application for permission to act as an agent for an on-course bookmaker licensee must be:
- (a) in the approved form; and
 - (b) accompanied by the fee prescribed by regulation; and
 - (c) accompanied by any information prescribed by regulation.
- (2) After considering the application, the Commission may give permission for a person to act as an agent for an on-course bookmaker licensee.

135 Application fees

- (1) The fees for applications relating to licences or permissions are prescribed by regulation.
- (2) The application fees are not refundable.

136 Security

- (1) If requested by the Commission, a wagering licensee must give security to cover the potential liability of the licensee under this Act.
- (2) The Commission may determine the form and amount or value of the required security, not exceeding the amount or value prescribed by regulation.
- (3) The Commission may, from time to time, vary the form, amount or value of the required security to reflect changes in the potential liability of the licensee.
- (4) The security given by a licensee may be used to pay any liability of the licensee for the following (in order of priority):
 - (a) any arrears for taxes or levies under this Act;
 - (b) any amount owed to customers of the licensee.

137 Investigation

- (1) The Director, on behalf of the Commission, may carry out, or cause to be carried out, such investigations and inquiries as the Director considers necessary for the purpose of determining an application.
- (2) The Director may require an applicant to pay to the Commission the actual cost of the investigation or inquiry.
- (3) The applicant may be required to make specified payments towards the cost of the investigation or inquiry before it begins and during the investigation or inquiry.
- (4) The Director may, on behalf of the Commission, refuse the application if a required payment is not made.
- (5) At the end of the investigation or inquiry, the Director 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.

- (6) In proceedings for recovery of the amount of any unpaid cost of an investigation or inquiry, a certificate by the Director is evidence of the amount.

138 Further information to support application

- (1) The Director may, by written notice, require an applicant for a licence to give further information or a document about the application within a reasonable time stated in the notice.
- (2) The requirement must relate to information or a document that is necessary and reasonable to help determine the application.

139 Reliance on information from other jurisdictions

In assessing or determining an application, the Director and the Commission may rely on information concerning an applicant obtained from a person or body who regulates racing, wagering or gambling in another jurisdiction if satisfied the information is reliable.

Division 4 Issuing and renewing licence

140 Issuing and renewing licence

- (1) The Commission may issue and renew a licence if:
 - (a) the applicant is eligible to apply for and hold the licence under Division 2; and
 - (b) issuing or renewing the licence is in the public interest, considering any risk to the reputation of the Commission or the Territory; and
 - (c) the applicant or application meets any other criteria for licensing prescribed by regulation.
- (2) If the Commission proposes to refuse to issue or renew a licence, the applicant must be given a written notice:
 - (a) advising the applicant of the proposed refusal; and
 - (b) stating the grounds for the proposed refusal; and
 - (c) inviting the applicant to show cause, within a specified period of at least 10 business days, why the application should not be refused.

- (3) If the applicant wishes to show cause why the application should not be refused, the applicant must make written submissions to the Commission within the period specified in the notice.
- (4) After considering any written submissions made by the applicant, the Commission must decide to:
 - (a) issue, or refuse to issue, the licence; or
 - (b) renew, or refuse to renew, the licence.
- (5) The Commission must give the applicant a decision notice as soon as practicable after making a decision on the application.
- (6) If an application to renew a licence is made before the term of the licence expires, the licence continues in force until the application is determined.

141 Term of licence

The term of a licence is the shorter of the following:

- (a) the period prescribed by regulation;
- (b) any shorter period imposed by the Commission.

142 Annual fees

- (1) Each licensee must pay to the Territory an annual fee prescribed by regulation in respect of the licence held by the licensee.
- (2) The annual fee must be paid each year commencing after the first year within 28 days after the anniversary of the day the licence was issued.

Note for subsection (2)

The application fee covers the first year of the licence.

- (3) If a licensee fails to pay the annual fee by the day required under subsection (2):
 - (a) the licensee must pay a penalty calculated at 10% per year (calculated daily) on any outstanding amount of the annual fee; and
 - (b) the Commission may suspend the licence until the fee is paid.
- (4) The annual fee is payable regardless of whether the licensee is operating during the period for which the fee is payable.

143 Surrender of licence

- (1) A licensee may surrender the licence to the Commission.
- (2) The surrender of a licence has no effect unless accepted by the Commission.
- (3) If the surrender of a licence is accepted, a person who held the licence ceases to be a licensee, but remains liable for:
 - (a) any act or omission done, caused, permitted or made by the person prior to the surrender taking effect; and
 - (b) any liability incurred by the person under this Act prior to the surrender taking effect.

Part 5 Taxes, levies and Racing and Wagering Fund

Division 1 Taxes

144 Liability for tax

- (1) A tax is imposed on the business of wagering.
- (2) A wagering licensee must pay the tax to the Territory on or before the 14th day of each month.
- (3) A tax paid by a licensee under this Division is not refundable.
- (4) Payment of the tax by electronic means takes effect when the amount is credited to the Territory.
- (5) Payment of the tax by cheque takes effect when the cheque is cleared on first presentation.

145 Rate of tax

- (1) The tax payable by an on-course bookmaker licensee is calculated at the rate of 0.33% on the total amount of wagers made by the licensee with persons during the preceding month minus the total amount of any wagers made by the licensee during that month with an agent as defined in section 3(1) of the *Totalisator Licensing and Regulation Act 2000* for making a back wager or lay off wager.
- (2) The tax payable by a betting exchange licensee is calculated at the rate of 5% on the total amount of commission retained or received by the licensee during the preceding month.

- (3) The tax payable by a sports bookmaker licensee is calculated at the rate of 5% on the total amount of wagers made by the licensee with persons during the preceding month minus the total amount paid by the licensee to those persons for the wagers during that month.
- (4) The amount of tax payable by a betting exchange licensee or sports bookmaker licensee for a financial year under this subsection must not exceed an amount equal to the monetary value of 1 000 000 revenue units.

146 Application of *Taxation Administration Act 2007*

The *Taxation Administration Act 2007* applies to a tax payable under this Division as if:

- (a) a reference in that Act to tax were a reference to a tax under this Division; and
- (b) a reference in that Act to taxpayer were a reference to a licensee; and
- (c) a reference in that Act to a taxation law included a reference to this Act; and
- (d) a reference in that Act to a corresponding law in Parts 9 and 10 included a reference to a law of the Commonwealth, a State or another Territory corresponding to this Act.

Division 2 Levies

147 Liability for levy

- (1) A levy to provide funding for the Racing and Wagering Fund is established.
- (2) The following licensees must pay the levy to the Racing and Wagering Fund on or before the 14th day of each month:
 - (a) a betting exchange licensee;
 - (b) a sports bookmaker licensee.
- (3) A levy paid by a licensee under this Division is not refundable.
- (4) Payment of the levy by electronic means takes effect when the amount is credited to the Territory.
- (5) Payment of the levy by cheque takes effect when the cheque is cleared on first presentation.

148 Rate of levy

- (1) The levy payable by a betting exchange licensee is calculated at the rate prescribed by regulation on the total amount of commission retained or received by the licensee during the preceding month.
- (2) The levy payable by a sports bookmaker licensee is calculated at the rate prescribed by regulation on the total amount of wagers made by the licensee with persons during the preceding month minus the total amount paid by the licensee to those persons for the wagers during that month.

149 Outstanding levy and interest

- (1) If a licensee fails to pay the levy in accordance with this Act:
 - (a) the licensee must pay interest calculated at 10% per year (calculated daily) on the outstanding amount of the levy; and
 - (b) the Commission may suspend the licence until the levy and interest is paid.
- (2) The amount of any outstanding levy and interest under subsection (1) is a debt due and payable to the Territory.

Division 3 Racing and Wagering Fund

150 Establishment of Racing and Wagering Fund

- (1) The Racing and Wagering Fund is established.
- (2) The Racing and Wagering Fund is taken to be an Agency Operating Account for the Agency under the *Financial Management Act 1995*.

151 Contents and purpose of Racing and Wagering Fund

- (1) The following must be paid into the Racing and Wagering Fund:
 - (a) any charges or costs paid to the Commission under this Act;
 - (b) the levies paid under section 147;
 - (c) any money appropriated to the Racing and Wagering Fund;
 - (d) money paid into the Racing and Wagering Fund under any other Act.

- (2) The Racing and Wagering Fund is to be used to pay the following:
- (a) the remuneration of the Director and members of the Commission;
 - (b) the costs and expenses of the Director and the Commission exercising their powers or performing their functions under this Act, including the Commission's powers and functions as a race control body;
 - (c) the costs and expenses of inspectors and persons appointed by the Director or the Commission to exercise powers or perform functions under this Act;
 - (d) the costs and expenses of training, professional development and education for inspectors, the Director and members and staff of the Commission;
 - (e) research related to wagering conducted by or for the Director or the Commission;
 - (f) grants to entities working to assist individuals harmed by wagering in the Territory;
 - (g) bursaries for education or employment programs related to racing in the Territory.

Part 6 Regulation of licensees

Division 1 Operations under licence

152 Premises in Territory

- (1) A betting exchange licensee and sports bookmaker licensee must maintain premises in the Territory for the conduct of the business of wagering.

Note for subsection (1)

A betting exchange licensee's and sports bookmaker licensee's premises must be registered as the licensee's principal place of business with the Australian Securities and Investment Commission.

- (2) A betting exchange licensee's and sports bookmaker licensee's proposed premises for the conduct of the business of wagering must be specified in the wagering licensee's application for the licence.

- (3) A betting exchange licensee and sports bookmaker licensee must not change the licensee's premises for the conduct of the business of wagering without approval of the Commission.

153 Conditions on licence

Every licence is subject to:

- (a) the conditions imposed by this Act or prescribed by regulation; and
- (b) any condition imposed by the Commission under section 154.

154 Discretionary conditions on licence

- (1) The Commission may, when issuing or renewing a licence, impose conditions on the licence relating to:
 - (a) the licensee's authority to operate under the licence; and
 - (b) the business, financial structure, assets and liabilities of the licensee.
- (2) If there is an inconsistency between a condition imposed by the Commission and a condition imposed by this Act or prescribed regulation, the condition imposed by this Act or prescribed by regulation prevails to the extent of the inconsistency.
- (3) Subject to subsection (4), a renewed licence is subject to the same conditions as the licence it replaces.
- (4) The Commission may vary or revoke a condition imposed under subsection (1) in accordance with the regulations.

155 Compliance with conditions and restrictions

- (1) A licensee must comply with any condition and restriction imposed on the licensee or licence.

Note for subsection (1)

Contravention of a licence condition may also lead to disciplinary action against the licensee.

- (2) A licensee who contravenes a condition of the licence commits an offence.

Maximum penalty: 2 500 penalty units.

- (3) An offence against subsection (2) is an offence of strict liability.

- (4) It is a defence to a prosecution for an offence against subsection (2) if the defendant has a reasonable excuse.

Note for subsection (4)

The defendant has an evidential burden in relation to this defence (see section 43BU of the Criminal Code).

156 Communications with customers

- (1) This section applies to wagering licensees.
- (2) The licensee must not conduct wagering with a customer who is physically present with the licensee's employees or agents, unless:
 - (a) the customer is at premises operated by the licensee at a racecourse with the consent of the race club responsible for the racecourse; or
 - (b) the licensee also holds a licence under the *Totalisator Licensing and Regulation Act 2000*.
- (3) All telephone communications to conduct wagering with a customer by the licensee must be conducted at the licensee's premises in the Territory, unless the licensee also holds a licence under the *Totalisator Licensing and Regulation Act 2000*.
- (4) The Commission may, by written notice, grant a waiver from subsection (3) for a specified temporary period if satisfied that:
 - (a) a natural disaster, emergency or other event determined by the Commission prevents the licensee from initiating or receiving communications in the Territory; and
 - (b) the waiver is necessary to allow the licensee to maintain customer service.

157 Change in associated persons and shareholders

- (1) This section applies to:
 - (a) a betting exchange licensee; and
 - (b) a sports bookmaker licensee.
- (2) The licensee must not make any of the following changes without the written approval of the Commission:
 - (a) any change in the associates of the licensee;

- (b) any change in a person who, alone or together with one or more associates of that person:
 - (i) is in a position to control at least 10% of the voting power in the licensee; or
 - (ii) holds interests in at least 10% of the issued shares in the licensee.
- (3) An application for approval must clearly set out the proposed change.
- (4) The Commission may approve the proposed change if satisfied that:
 - (a) in the case of a new person proposed to be an associate of the licensee – the person is suitable to be an associate of the licensed business; and
 - (b) in every case – the change will not affect the licensee's eligibility or suitability to hold the licence.
- (5) The Commission must give the applicant a decision notice if it refuses to approve the proposed change.
- (6) Any decision to refuse to approve the change must be made and the decision notice given within 90 days after the day the application is lodged.

158 Change of associate without approval

- (1) A person commits an offence if:
 - (a) the person is a licensee; and
 - (b) the person intentionally engages in conduct; and
 - (c) the conduct results in a change referred to in section 157(2) and the person is reckless in relation to that result; and
 - (d) the change was not approved by the Commission.

Maximum penalty: 1 000 penalty units.

- (2) Strict liability applies to subsection (1)(a) and (d).

- (2) The presumption in subsection (1) may be rebutted if the wager was contrary to this Act or to the law of a State, another Territory or the Commonwealth.

161 Proceedings to collect wager

A person may take proceedings to recover:

- (a) moneys payable on a winning lawful wager; or
- (b) moneys payable by a lawful wager or on account of a lawful wager offered and accepted.

162 Duty to report events related to operations

- (1) A licensee must report to the Commission any event related to operations under the licence that is prescribed by regulation.
- (2) The report must be made as soon as reasonably practicable after the licensee becomes aware that the event occurred.

Division 2 Wagering control system

163 Requirements for wagering control system

- (1) A wagering licensee must have a wagering control system consisting of a system of internal controls and administrative and accounting procedures, including computer hardware and software.
- (2) A wagering control system must, in accordance with the regulations:
 - (a) safeguard compliance by the wagering licensee and the holders of a key person licence, employed by the licensee, with this Act; and
 - (b) allow all transactions to be recorded in real time in a way that is auditable, reliable and secure; and
 - (c) ensure that all parties to wagers receive their correct entitlement.

Note for subsection (2)

The wagering control system may be owned by the licensee or by a third party.

- (3) A wagering licensee must not conduct operations under the licence unless its wagering control system is approved by the Director in accordance with the regulations.

- (4) The Director may make approval of a wagering control system conditional on the system's compliance with any standards, rules or requirements the Director considers appropriate to ensure the system meets the requirements of subsection (2).
- (5) The Director must publish the standards, rules or requirements applicable to wagering control systems under subsection (4).
- (6) A wagering licensee must not change its wagering control system except in accordance with the regulations.
- (7) A licensee must report a breach or failure of a wagering control system in accordance with the regulations.

164 Offences related to wagering control systems

- (1) A person commits an offence if the person:
 - (a) is a wagering licensee; and
 - (b) has no wagering control system currently approved by the Director; and
 - (c) intentionally conducts business under the licence.

Maximum penalty: 1 000 penalty units.

- (2) Strict liability applies to subsection (1)(a) and (b).
- (3) A person commits an offence if:
 - (a) the person is a wagering licensee; and
 - (b) the person's wagering control system is approved by the Director; and
 - (c) the person engages in conduct; and
 - (d) that conduct results in:
 - (i) a failure to implement or comply with the wagering control system; or
 - (ii) a change to the wagering control system contrary to the regulations.

Maximum penalty: 1 000 penalty units.

- (4) An offence against subsection (3) is an offence of strict liability.

- (5) A person commits an offence if the person:
- (a) is a wagering licensee; and
 - (b) fails to make a report in accordance with section 163(7).
- Maximum penalty: 1 000 penalty units.
- (6) An offence against subsection (5) is an offence of strict liability.
- (7) It is a defence to a prosecution for an offence against subsection (1), (3) or (5) if the defendant has a reasonable excuse.

Note for subsection (7)

The defendant has an evidential burden in relation to this defence (see section 43BU of the Criminal Code).

Division 3 Events and sporting information

165 Prohibition of event

- (1) The Minister may, by *Gazette* notice, prohibit or restrict wagering on a specified event if the Minister considers wagering on that event to be contrary to the public interest or community expectations.

Note for subsection (1)

A wager made on an event prohibited by the Minister is an unlawful wager under section 199.

- (2) For subsection (1), the Minister may consider the following factors:
- (a) the objective of promoting safe wagering and minimising harm from unsafe wagering;
 - (b) consumer protection issues associated with the event;
 - (c) protecting the public from contingencies that are offensive or insulting.
- (3) Any potential or actual loss of revenue to the Territory or a licensee resulting from a prohibition or restriction under this section is not a relevant consideration.
- (4) Before prohibiting or restricting wagering under this section, the Minister may request and consider submissions from a licensee who would be affected by the proposed prohibition or restriction.

166 Novelty events

- (1) The Commission may issue rules governing the wagering on novelty events by licensees.

Note for subsection (1)

A wager on a novelty event is a wager on the results of any event happening anywhere in the world.

Example for subsection (1)

A wager on the result of an award show or the weather on a particular day.

- (2) The Commission must publish any rules issued under subsection (1).

167 Declaration of sporting event

- (1) The Commission may declare an event to be a sporting event.
- (2) The Commission must publish any event declared under subsection (1).

168 Directions on contingency in relation to sporting event

- (1) The Commission may issue directions to a wagering licensee, prohibiting or restricting wagering on a specified contingency in relation to a sporting event if it considers wagering on that contingency to be contrary to the public interest or community expectations.

Note for subsection (1)

A wager made on a contingency prohibited by the Commission is an unlawful wager under section 199.

- (2) For subsection (1), the Commission may consider the following factors:
- (a) the objective of promoting safe wagering and minimising harm from unsafe wagering;
 - (b) consumer protection issues associated with the contingency;
 - (c) protecting the public from contingencies that are offensive or insulting;
 - (d) protecting the integrity of the sporting event.
- (3) Any potential or actual loss of revenue to the Territory or a licensee resulting from a direction under this section is not a relevant consideration.

- (4) Before issuing a direction, the Commission may request and consider submissions from a licensee who would be affected by the proposed direction.

169 Meaning of *sports information*

The following information is taken to be *sports information*:

- (a) information that identifies, or is capable of identifying, an animal or rider in a race;
- (b) information about a sporting event declared by the Commission, including information about an individual or a team expected to take part, or taking part, in the sporting event.

170 Approval to use sports information

- (1) A wagering licensee must obtain approval in accordance with this section to use sports information relating to a race or sporting event in the Territory.
- (2) A wagering licensee must obtain approval to use sports information relating to a race or sporting event in another Territory or State if the body or entity governing that race or sporting event requires approval for using that information.

Example for subsection (2)

Some national sports league governing bodies require sports bookmakers to pay for the use of information about their sport. In such cases, the sports bookmaker must get approval from the body to use the information.

- (3) The approval must be obtained from:
 - (a) in the case of information relating to a race in the Territory – the race control body responsible for the race; or
 - (b) in the case of information relating to a sporting event in the Territory – the control body specified by the Commission under subsection (5); or
 - (c) in the case of information relating to a race or sporting event in another Territory or State – the control body that requires approval for using that information.
- (4) An application for approval to use sports information must be in the form and manner required by the control body that requires approval.

- (5) The Commission may, by *Gazette* notice, authorise a body or entity to be the control body for a sporting event that occurs in the Territory.

171 Using sports information

A wagering licensee is taken to use sports information if the licensee, in the course of business as a wagering licensee:

- (a) publishes the sports information; or
- (b) conducts wagering on contingencies created using the sports information; or
- (c) deals with the sports information in a manner prescribed by regulation.

172 Approval by control body

- (1) A control body in the Territory that receives an application under section 170(4) must decide whether to approve the use of the information no later than 28 days after receiving the application.
- (2) A control body may:
 - (a) require the payment of a fee for approval to use the sports information; and
 - (b) impose conditions on its approval.
- (3) A control body may specify the period for which its approval is valid.
- (4) Any fee for the use of the sports information is a debt due and payable to the control body that gave the approval.

173 Variation of conditions

- (1) A control body may vary or revoke the conditions of its approval to use sports information or impose additional conditions on the approval to use sports information given to a wagering licensee.
- (2) Before exercising its powers under subsection (1), a control body in the Territory must:
 - (a) give the wagering licensee written notice of the proposed variation, revocation or additional conditions; and
 - (b) consider any submissions made by the wagering licensee within 28 days after the notice is sent to the licensees.

- (3) The Commission must give the licensee a decision notice if it approves or refuses to approve an arrangement or agreement between a licensee and a person.

Note for subsection (3)

The arrangement or agreement can be terminated under section 214.

- (4) The Commission may, in its decision notice:
- (a) clarify the scope of the obligations applicable to the person; and
 - (b) limit the scope of the activities and relationship applicable to the person; and
 - (c) impose conditions on the licensee and the person regarding the relationship.
- (5) The licensee must keep a record of any arrangement or agreement approved under this section.

178 Obligations of arrangement or agreement

If the Commission approves an arrangement or agreement between a licensee and another person, the other person and the other person's conduct in relation to the business operated under the licence is subject to:

- (a) the provisions of this Act applicable to the licensee and the licensee's conduct; and
- (b) any conditions imposed on the person by the Commission.

179 Arrangement or agreement without approval

- (1) A person commits an offence if:
- (a) the person is a betting exchange licensee or sports bookmaker licensee; and
 - (b) the person intentionally enters into an arrangement or agreement in connection with the licence or the business operated under the licence with another person; and
 - (c) the arrangement or agreement requires the approval of the Commission under section 176; and

- (d) the arrangement or agreement was not approved by the Commission.

Maximum penalty: 1 000 penalty units.

- (2) Strict liability applies to subsection (1)(a), (c) and (d).
- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant has a reasonable excuse.

Note for subsection (3)

The defendant has an evidential burden in relation to this defence (see section 43BU of the Criminal Code).

Division 5 Terms and conditions of wagering

180 Requirement for terms and conditions of wagering

- (1) A betting exchange licensee and sports bookmaker licensee must have written terms and conditions for all products and services offered by the licensee and how customers will obtain and use them.
- (2) The terms and conditions must:
 - (a) be fair and reasonable to customers; and
 - (b) be written in plain English; and
 - (c) not be contrary to the public interest; and
 - (d) be suitable and appropriate for each product or service offered by the licensee.
- (3) A licensee must make its terms and conditions available on its website and all its other wagering platforms.

181 Initial terms and conditions of wagering

- (1) A betting exchange licensee and a sports bookmaker licensee must not commence business under a licence except in accordance with the terms and conditions of wagering upon which the licence was issued.

Note for subsection (1)

The initial terms and conditions of wagering are submitted as part of the application process under section 131(3).

- (2) A person commits an offence if:
- (a) the person is a betting exchange licensee or sports bookmaker licensee; and
 - (b) the person intentionally contravenes subsection (1).

Maximum penalty: 1 000 penalty units.

- (3) Strict liability applies to subsection (2)(a).
- (4) It is a defence to a prosecution for an offence against subsection (2) if the defendant has a reasonable excuse.

Note for subsection (4)

The defendant has an evidential burden in relation to this defence (see section 43BU of the Criminal Code).

182 Change in terms and conditions

- (1) A betting exchange licensee and sports bookmaker licensee must give to the Commission a copy of any substantive change to the terms and conditions of wagering upon which the licence was issued within 14 days of the change.
- (2) The Commission may issue a direction to a betting exchange licensee and sports bookmaker licensee to change the terms and conditions of wagering within the time, and in the way, specified in the notice if satisfied the terms and conditions no longer meet the requirements of section 180.

Division 6 Customer accounts

183 Requirement for account

- (1) A betting exchange licensee and sports bookmaker licensee must not accept a wager from a person unless:
- (a) the person opens and holds an account with the licensee; and
 - (b) the person is identified in accordance with the *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No. 1)* (Cth).
- (2) A licensee is exempt from subsection (1) if the licensee:
- (a) holds a licence under the *Totalisator Licensing and Regulation Act 2000*; and

(b) accepts the wager from a customer present at the licensee's retail premises.

- (3) A betting exchange licensee and sports bookmaker licensee must close an open customer account if the licensee becomes aware that false information of identity was used to open the account.

184 Wager receipt

- (1) A wagering licensee must issue a receipt for each wager accepted by the licensee.
- (2) The receipt must be issued to the person making the wager and include the information prescribed by regulation.

Division 7 Financial matters

185 Wagering records

- (1) A wagering licensee must immediately record any wager accepted by the licensee by means of a document, equipment, device or service.
- (2) Any wager paid out to a person by an on-course bookmaker licensee must be recorded immediately on the same document, equipment, device or service as the wager.

186 Keeping accounts

A wagering licensee must:

- (a) keep accounting records that correctly record and explain the transactions and financial position of the business operated under the licence; and
- (b) keep the accounting records in a way that allows:
- (i) true and fair financial statements and accounts to be prepared from time to time; and
 - (ii) the financial statements and accounts to be conveniently and properly audited.

187 Preparation of financial statements and accounts

- (1) A betting exchange licensee and sports bookmaker licensee must prepare financial statements and accounts in accordance with applicable Australian accounting standards that give a true and fair view of the financial operations of the business operated under the licence including:
 - (a) the verification and reconciliation of tax payments; and
 - (b) long-term wager accounts in financial institutions; and
 - (c) customer accounts; and
 - (d) any other matter prescribed by regulation.
- (2) A betting exchange licensee and sports bookmaker licensee must lodge a copy of their financial statements and accounts with the Commission within 5 months of the end of the licensee's financial year.

188 Monthly returns

- (1) A wagering licensee must prepare a monthly return on the licensee's operations during the previous month.
- (2) The monthly return must be in the approved form and contain the information prescribed by regulation.
- (3) The monthly return must be lodged with the Commission within 14 days after the end of each month.

189 Failure to lodge return

- (1) A wagering licensee commits an offence if the licensee fails to lodge a monthly return as required under section 188.

Maximum penalty: 35 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.

190 Audits

- (1) The Commission may, by written notice, require a licensee to conduct an audit in accordance with this section.
- (2) The audit may be required for the following:
 - (a) the licensee's accounts and financial statements prepared under sections 186 and 187;

- (b) the licensee's wagering control system;
- (c) any system for the storage of information relating to the licence;
- (d) any financial, unsafe wagering, fraud or money laundering or counter-terrorism matters.
- (3) The audit must be performed, at the expense of the licensee, and an audit report prepared by:
 - (a) a person registered as an auditor, or taken to be so registered, under Part 9.2 of the *Corporations Act 2001* (Cth); or
 - (b) another person qualified and suitable to perform the audit acceptable to the Commission.
- (4) The licensee must lodge a copy of the audit report with the Commission within 90 days after the day the licensee receives the request, or any further time allowed by the Commission.
- (5) On receiving a copy of the audit report, the Commission may, by written notice, require the licensee to give further information about a matter relating to the audit.
- (6) The licensee must comply with a requirement under subsection (5) within the time stated in the notice, or any further time allowed by the Commission.

191 Producing records and other documents

A wagering licensee must, on the request of an inspector, the Director or the Commission produce:

- (a) any record required to be kept by the licensee under this Act; or
- (b) any other document relating to the operation of the licensee's business.

192 Failure to produce records and other documents

- (1) A wagering licensee commits an offence if the licensee fails to comply with a request under section 191.

Maximum penalty: 35 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.

- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant has a reasonable excuse.

Note for subsection (3)

The defendant has an evidential burden in relation to this defence (see section 43BU of the Criminal Code).

Division 8 Offences related to wagering

Subdivision 1 Conduct by licensees

193 Prohibited or restricted wagering

- (1) A person commits an offence if:
- (a) the person is a licensee; and
 - (b) the person conducts wagering; and
 - (c) the wager is on an event or a contingency prohibited or restricted under section 165 or 168; and
 - (d) the wager contravenes the prohibition or restriction.

Maximum penalty: 2 500 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.
- (4) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3).

194 Misleading wagers prohibited

- (1) A person commits an offence if:
- (a) the person is a betting exchange licensee or sports bookmaker licensee; and
 - (b) the person conducts wagering; and
 - (c) the wager is likely to lead a potential customer to believe on reasonable grounds that the wager is:
 - (i) a ticket in a lottery; or

(ii) an offer or invitation to enter or participate in a lottery.

Maximum penalty: 2 500 penalty units.

- (2) A person commits an offence if:
- (a) the person is a wagering licensee; and
 - (b) the person conducts wagering; and
 - (c) the winning outcome of the wager consists of numbers, digits or symbols derived from numbers, digits or symbols that form part only of one or more sporting events; and
 - (d) the wager does not enable a potential customer to use judgement or skill in the selection of the winning outcome.

Maximum penalty: 2 500 penalty units.

- (3) An offence against subsection (1) or (2) is an offence of strict liability.
- (4) It is a defence to a prosecution for an offence against subsection (1) or (2) if:
- (a) the wager had the characteristics of a mystery wager on a race or sporting event and the combination in the wager relates to direct outcomes of identified races or sporting events; or
 - (b) the wager was exempted by the Commission under subsection (5).

Note for subsection (4)

The defendant has an evidential burden in relation to these exemptions (see section 43BU of the Criminal Code).

- (5) The Commission may, on application by a licensee or a customer or its own initiative, declare that a specific wager is exempt from subsection (1) or (2) if the Commission is satisfied that:
- (a) the wager is not misleading; and
 - (b) the wager is not an abuse of a sporting event.
- (6) Nothing in this section prevents a person from conducting a lottery or internet gaming business in accordance with the *Gaming Control Act 1993*.

(7) In this section:

internet gaming business, see section 47A of the *Gaming Control Act 1993*.

lottery, see section 3 of the *Gaming Control Act 1993*.

195 Offences related to accounts

(1) A person commits an offence if the person:

- (a) is a betting exchange licensee or sports bookmaker licensee; and
- (b) accepts a wager from another person; and
- (c) does not comply with section 183(1) or (3).

Maximum penalty: 2 500 penalty units.

(2) An offence against subsection (1) is an offence of strict liability.

196 Not issuing receipt for wager

(1) A person commits an offence if the person:

- (a) is a wagering licensee; and
- (b) accepts a wager from another person; and
- (c) does not issue a receipt to the other person in accordance with section 184.

Maximum penalty: 2 500 penalty units.

(2) An offence against subsection (1) is an offence of strict liability.

(3) It is a defence to a prosecution for an offence against subsection (1) if the defendant has a reasonable excuse.

Note for subsection (3)

The defendant has an evidential burden in relation to this defence (see section 43BU of the Criminal Code).

197 Not recording wager

(1) A person commits an offence if the person:

- (a) is a wagering licensee; and
- (b) accepts a wager from another person; and

- (c) does not keep a record of the wager in accordance with section 185.

Maximum penalty: 2 500 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant has a reasonable excuse.

Note for subsection (3)

The defendant has an evidential burden in relation to this defence (see section 43BU of the Criminal Code).

198 Offence relating to audits

- (1) A person commits an offence if the person:
- (a) is a wagering licensee; and
 - (b) receives a request from the Commission under section 190 to conduct an audit; and
 - (c) fails to cause an audit to be made, or to lodge a copy of the audit report, in accordance with that section.

Maximum penalty: 100 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.

Subdivision 2 Unlawful wagers

199 Unlawful wager

- (1) A wager is unlawful if:
- (a) it is made through a person who is not a wagering licensee or does not hold other legal authority to accept a wager; or
 - (b) it is made in relation to an event prohibited or restricted by the Minister under section 165(1); or
 - (c) it is a novelty wager and contravenes any rules for novelty wagers issued by the Commission under section 166(1); or
 - (d) it is made in relation to an event that is not declared to be a sporting event by the Commission under section 167(1); or

- (e) it contravenes a direction issued by the Commission in relation to a contingency on a sporting event under section 168(1); or
 - (f) it is otherwise contrary to this Act or to the law of a State, another Territory or the Commonwealth; or
 - (g) it is declared to be unlawful by the Commission under subsection (2).
- (2) The Commission may, on application by a licensee or a customer or its own initiative, declare a wager to be unlawful if satisfied that:
- (a) the wager was made in relation to an event that was not fairly or lawfully conducted; or
 - (b) the wager was made in relation to an event where the result 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.

200 Offence related to unlawful wager

- (1) A person commits an offence if:
- (a) the person intentionally wagers with another person; and
 - (b) the wager is an unlawful wager.
- Maximum penalty: 215 penalty units.
- (2) An offence against subsection (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant has a reasonable excuse.

Note for subsection (3)

The defendant has an evidential burden in relation to this defence (see section 43BU of the Criminal Code).

201 Soliciting unlawful wagers

- (1) A person commits an offence if the person:
- (a) directly or indirectly invites or solicits another person to give or entrust to the person money or other valuable thing; and

- (b) engages in the conduct mentioned in paragraph (a) with the intention of using the money or valuable thing for an unlawful wager.

Maximum penalty: 215 penalty units.

- (2) Subsection (1)(b) is the fault element for the conduct in subsection (1)(a).

202 Agreement relating to unlawful wager

- (1) An agreement, whether oral or in writing, relating to an unlawful wager is void and has no effect.
- (2) No action or proceeding may be commenced or maintained to recover money or other valuable thing that is:
 - (a) won on an unlawful wager; or
 - (b) deposited with a person to abide the contingency on which an unlawful wager was made.

203 Disposition of property as result of unlawful wager

- (1) Despite any Act relating to the registration of title to real or personal property, a disposition of property made, or an agreement to dispose of property entered into, by way of payment of or security for a debt as a consequence of an unlawful wager is of no effect.
- (2) Subsection (1) does not invalidate a disposition of property to a person if:
 - (a) the disposition was for valuable consideration; and
 - (b) the person was not a party to the agreement referred to in subsection (1); and
 - (c) the person, at the time of the disposition, had no notice that the property was the subject of, or the whole or part of the consideration for, the agreement; and
 - (d) the person acted in good faith.

Subdivision 3 Other conduct

204 Contravention of code of practice

- (1) A person commits an offence if:
 - (a) the person intentionally engages in conduct; and

- (b) the conduct contravenes a code of practice approved by the Minister under section 13.

Maximum penalty: 1 000 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.
(3) It is a defence to a prosecution for an offence against subsection (1) if the defendant has a reasonable excuse.

Note for subsection (3)

The defendant has an evidential burden in relation to this defence (see section 43BU of the Criminal Code).

205 Contravention of Commission's direction

- (1) A person commits an offence if:
- (a) the person intentionally engages in conduct; and
 - (b) the conduct contravenes a direction of the Commission issued under section 50(1), 168(1), 182(2), 214(1), 224(2)(b), 226(2)(d) or 255(1).

Maximum penalty: 2 500 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.
(3) It is a defence to a prosecution for an offence against subsection (1) if the defendant has a reasonable excuse.

Note for subsection (3)

The defendant has an evidential burden in relation to this defence (see section 43BU of the Criminal Code).

206 Occupier conducting or allowing wagering contrary to Act

- (1) A person commits an offence if:
- (a) the person is an occupier of a place; and
 - (b) the person intentionally conducts or allows wagering in that place; and
 - (c) the conduct is contrary to this Act or the wager is an unlawful wager.

Maximum penalty: 20 penalty units.

- (2) Strict liability applies to subsection (1)(a) and (c).

207 Invitation to place of wagering contrary to Act

- (1) A person commits an offence if:
 - (a) the person invites members of the public to a place to conduct wagering; and
 - (b) the conduct is contrary to this Act or the wager is an unlawful wager.

Maximum penalty: 10 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.

208 Wagering on trial

- (1) A person commits an offence if:
 - (a) the person is a licensee; and
 - (b) the person conducts wagering; and
 - (c) the wagering is on the outcome of a trial.

Maximum penalty: 50 penalty units.

- (2) A person commits an offence if:
 - (a) the person conducts wagering; and
 - (b) the wagering is on the outcome of a trial.

Maximum penalty: 20 penalty units.

- (3) An offence against subsection (1) or (2) is an offence of strict liability.

Part 7 Remedial powers

Division 1 Voiding and validating wagers

209 Power to declare wager void

- (1) The Commission may declare a wager or a series of wagers to be void if satisfied, after an investigation, that the wager:
 - (a) contravened this Act, a code of practice or the terms and conditions of wagering under which it was accepted; or
 - (b) was an unlawful wager; or

- (c) should not have been offered, negotiated or accepted by a licensee.
- (2) The declaration under subsection (1) must be in the form of a decision notice.
- (3) The licensee must refund the amount of any wager declared void within 7 days, unless the licensee applies for a review of the declaration under section 239.

210 Power to declare wager valid

- (1) The Commission may declare a wager or a series of wagers to be valid if satisfied, after an investigation, that the licensee should not have voided the wager accepted by a licensee because the wager:
 - (a) did not contravene this Act, a code of practice or the terms and conditions of wagering under which it was accepted; or
 - (b) was not an unlawful wager.
- (2) The declaration under subsection (1) must be in the form of a decision notice.
- (3) The licensee must pay out the amount of the winnings of any wager declared valid by the Commission, unless the licensee applies for a review of the declaration under section 239.

Division 2 Prohibiting and closing accounts

211 Prohibiting opening of account

- (1) The Commission may, by written notice, issue a direction to a betting exchange licensee and sports bookmaker licensee prohibiting the licensee from opening an account for a person specified in the notice, if satisfied that:
 - (a) the person is engaged in unsafe wagering or should be protected from unsafe wagering; or
 - (b) the person demonstrates little or no understanding of wagering.
- (2) Before making a direction under subsection (1), the Commission must consider the following factors:
 - (a) whether the person displays a lack of understanding of how to wager, how wagers are settled or the terms and conditions of a wager;

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- (b) whether the person made unsuccessful complaints displaying a similar lack of understanding;
 - (c) whether the person has multiple accounts with different licensees and has made unsuccessful complaints displaying a similar lack of understanding with those licensees;
 - (d) whether the person displays the behaviour of a problem gambler;
 - (e) any other factor the Commission considers relevant.
- (3) A direction under subsection (1) may be made in relation to a group of licensees.
 - (4) The direction must include the following information:
 - (a) the name of the person whose account is not to be opened;
 - (b) the reason for prohibiting the opening of the account;
 - (c) the name of the licensee or licensees;
 - (d) the action to be taken by the licensee in relation to the account.
 - (5) A licensee who receives a notice under subsection (1) must not open an account for the person specified in the notice.

Note for section 211

A person specified in the notice may apply under section 239 to NTCAT for review of the decision to issue the notice.

212 Opening prohibited account

- (1) A person commits an offence if the person:
 - (a) is a betting exchange licensee or sports bookmaker licensee; and
 - (b) receives a notice from the Commission under section 211 prohibiting the opening of an account for a person specified in the notice; and
 - (c) opens an account for the person specified in the notice.

Maximum penalty: 2 500 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.

- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.
- (4) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3).

213 Power to close account

- (1) The Commission may, on application by a person or its own initiative, issue a direction to a licensee to close the account of a person, either permanently or temporarily, if satisfied that:
 - (a) the person is engaged in unsafe wagering or should be protected from unsafe wagering; or
 - (b) the person demonstrates little or no understanding of wagering.
- (2) Before making a direction under subsection (1), the Commission must consider the following factors:
 - (a) whether the person displays a lack of understanding of how to wager, how wagers are settled or the terms and conditions of a wager;
 - (b) whether the person made unsuccessful complaints displaying a similar lack of understanding;
 - (c) whether the person has multiple accounts with different licensees and has made unsuccessful complaints displaying a similar lack of understanding with those licensees;
 - (d) whether the person displays the behaviour of a problem gambler;
 - (e) any other factor the Commission considers relevant.
- (3) A direction under subsection (1) may be made in relation to a group of licensees.
- (4) The direction must include the following information:
 - (a) the name of the person whose account is to be closed;
 - (b) the reason for closing the account;
 - (c) the name of the licensee or licensees;
 - (d) the action to be taken by the licensee in relation to the account.

- (5) The direction must be given to:
 - (a) the licensee and all other betting exchange licensees and sports bookmaker licensees; and
 - (b) the person whose account is to be closed.
- (6) A licensee who receives a direction to close an account must:
 - (a) immediately suspend the account; and
 - (b) subject to subsection (7), close the account within 7 days after the day the direction is received.
- (7) If an application for review of the direction is made to NTCAT within 7 days after the day the direction is received by the person subject to the direction, the account must not be closed until the review is complete and the direction upheld.

Division 3 Associated persons, arrangements and agreements

214 Direction to terminate association, arrangement or agreement

- (1) The Commission may issue a direction to a licensee and any person who is an associate of the licensee or in an arrangement or agreement with the licensee to terminate the association, arrangement or agreement, whether previously approved or not.
- (2) A direction under subsection (1) may only be made if the Commission is satisfied, after an investigation, that:
 - (a) the person contravened a provision of this Act or any code of practice, direction, standard, rule or requirement under this Act; or
 - (b) the person is not suitable to be an associate of or be in an arrangement or agreement with the licensee.
- (3) When considering suitability under subsection (2)(b), the Commission must consider the following criteria:
 - (a) whether the person is a fit and proper person, having regard to character, honesty and integrity;
 - (b) whether the person has any business association with any person, body or association who or which, in the opinion of the Commission, is not a fit and proper person, having regard to character, honesty and integrity or has undesirable or unsatisfactory financial resources.

215 Notice of proposed direction

- (1) Before issuing a direction under section 214(1), the Commission must give a written notice to the licensee and the person who is subject to the direction.
- (2) The notice must include the following information:
 - (a) the name of the licensee and the person whose association, arrangement or agreement is to be terminated;
 - (b) the reason for the proposed direction;
 - (c) the action to be taken to terminate the association, arrangement or agreement;
 - (d) the right to respond under subsection (3).
- (3) The licensee and the person whose association, arrangement or agreement is to be terminated may submit a written response to the proposed direction with the Commission within 14 days after receiving the notice.

216 Issuing direction to terminate association, arrangement or agreement

- (1) The Commission must consider any response submitted under section 215(3) and decide whether to issue the direction or not.
- (2) If the Commission issues the direction, a copy must be given to the licensee and the person who is subject to the direction.

217 Compliance with direction

- (1) The licensee and person subject to a direction under section 214(1) must terminate their association, arrangement or agreement within 28 days after the date of the direction or any longer period allowed by the Commission.
- (2) If the association, arrangement or agreement is not terminated within the period required under subsection (1), the Commission may suspend the licence until the association, arrangement or agreement is terminated or for another period determined by the Commission.

Division 4 Harm reduction

218 Prohibition orders

- (1) An application may be made to the Local Court for an order to be made prohibiting a person from wagering on the grounds that the person's wagering has impoverished, or is likely to endanger the welfare of, the person or other persons.
- (2) The Local Court hearing the application may do any of the following:
 - (a) investigate the matters contained in the application;
 - (b) hear evidence related to the application;
 - (c) summon the person to appear, at a time and place specified in the summons, and to show cause why an order should not be made prohibiting the person from wagering;
 - (d) summon a licensee to give evidence relevant to the application.
- (3) The Local Court may make an order prohibiting a person from making wagers with a licensee or entering the premises of a licensee or a racecourse if satisfied the person's wagering has impoverished, or is likely to endanger the welfare of, the person or other persons.
- (4) The order expires as may be specified in the order.
- (5) All proceedings under this section must be conducted in private and not open to the public.

219 Promotion of safe wagering

- (1) The Director and the Commission may engage in activities to promote safe wagering to the public or selected audiences.
- (2) The activities may include holding forums or sessions and publishing information about the following matters:
 - (a) measures to reduce harm caused by unsafe wagering;
 - (b) measures to encourage safe wagering;
 - (c) information on wagering products, safe wagering tools and support services;

- (d) measures to prevent wagering by children and other persons prohibited from wagering.

Part 8 Complaints, investigations, disciplinary action and hearings

Division 1 Complaints

220 Making complaints

- (1) Any person may make a complaint in relation to:
 - (a) an alleged contravention of this Act, the regulations, a code of practice approved or rules issued under this Act; or
 - (b) a licensee's handling of a wager.
- (2) The complaint must:
 - (a) be made in writing and, in the case of a complaint to the Commission, in the approved form; and
 - (b) state the name and contact details of the person making the complaint; and
 - (c) specify the ground for the complaint and the identity of the licensee or other person complained of.

221 Lodging complaints

- (1) A complaint in relation to an on-course bookmaker licensee's handling of a wager, must be lodged with the steward of the racecourse where the on-course bookmaker was located when the wager was made.
- (2) A complaint in relation to any matter other than a complaint specified in subsection (1) must be lodged with the Commission.
- (3) A complaint must be lodged within:
 - (a) 14 days after the person became aware of the matter giving rise to the complaint; or
 - (b) any later time, up to 2 years after the matter occurred, that is allowed by the Commission.

222 Investigation of complaint to Commission

- (1) The Director may, on behalf of the Commission, investigate a complaint lodged with the Commission under section 221(2).
- (2) The Director may refuse to investigate a complaint if satisfied that:
 - (a) the complaint is trivial, frivolous or vexatious; or
 - (b) in the case of a complaint by a customer against a licensee – the customer has not raised the complaint with the licensee; or
 - (c) no grounds exist for the complaint.
- (3) The Director must give the parties to the complaint written notice if the Director refuses to investigate the complaint for a reason mentioned in subsection (2).
- (4) The parties to a complaint being investigated by the Director may submit a written response regarding the complaint with the Director within the time specified by the Director in the written notice.

223 Action after investigation

- (1) After completing an investigation and considering any submissions received under section 222(4) in relation to the complaint, the Director must:
 - (a) prepare a report on the investigation; and
 - (b) give the report to the Commission.
- (2) A report prepared under subsection (1)(a) must:
 - (a) summarise the findings of the investigation; and
 - (b) attach any submissions received from the parties; and
 - (c) include any relevant evidence obtained during the investigation; and
 - (d) include any recommendations the Director may have in relation to the complaint.

224 Action by Commission in relation to complaints

- (1) The Commission must consider any report regarding the investigation of a complaint under section 223(1) given to the Commission by the Director.

- (2) The Commission may, after considering the report, do the following:
- (a) take no action over the complaint if satisfied that:
 - (i) there are no grounds or evidence to justify taking action;
or
 - (ii) the complaint does not warrant taking action; or
 - (iii) the complaint was satisfactorily settled by the parties to the complaint;
 - (b) issue a direction to a licensee to take specified action to resolve the complaint;
 - (c) declare a wager to be void or valid;
 - (d) schedule a hearing under section 232;
 - (e) take disciplinary action if satisfied that there are grounds to do so.
- (3) The Commission must give a decision notice of the decision or action under subsection (2) to the parties to the complaint.

Division 2 Other investigations

225 Director's investigation

- (1) The Director, on behalf of the Commission, may investigate a licensee or other person regulated under this Act in relation to:
- (a) the possible commission of an offence by the licensee or other person; or
 - (b) any possible grounds for disciplinary action against a licensee.
- (2) After completing an investigation under subsection (1), the Director must:
- (a) prepare a report on the investigation; and
 - (b) give the report to the Commission.

226 Action by Commission in relation to investigation

- (1) The Commission must consider any report regarding an investigation under section 225 given to the Commission by the Director.

- (2) The Commission may, after considering the report, do the following:
 - (a) accept any recommendation made by the Director in the report;
 - (b) enter into an enforceable undertaking in relation to the matter;
 - (c) take disciplinary action under section 228 if satisfied that there are grounds to do so;
 - (d) issue any other notice or direction or make any other declaration available under this Act in relation to the matter;
 - (e) schedule a hearing to be held under Division 4 to deal with the matter.
- (3) The Commission must give a decision notice of the decision made under subsection (2)(a) to (d) to any complainant and the licensee or other person under investigation.

Division 3 Disciplinary action

227 Grounds for disciplinary action

- (1) Each of the following is a ground for taking disciplinary action against a licensee or a race club:
 - (a) the licensee or race club gives incorrect or misleading information in an application under this Act;
 - (b) the licensee or race club is no longer eligible, qualified or competent to hold the licence or registration;
 - (c) the licensee or race club contravenes:
 - (i) this Act; or
 - (ii) another law relating to racing or wagering, including a law of a State, another Territory or the Commonwealth;
 - (d) the licensee or race club fails to pay a fee or levy under this Act within the required time;
 - (e) the licensee or race club contravenes a condition or restriction on the licence or registration;
 - (f) the licensee or race club contravenes an enforceable undertaking;

- (g) the licensee or race club fails to pay a monetary penalty previously imposed as disciplinary action within the required time.
- (2) Disciplinary action may be taken any time after the events that constitute the ground for taking disciplinary action occurred.

228 Disciplinary action

- (1) The Commission may take disciplinary action against licensees and race clubs.
- (2) The following ***disciplinary action*** may be taken against a licensee or race club:
 - (a) cancel or suspend the licence or registration;
 - (b) amend the conditions of the licence or registration;
 - (c) disqualify the licensee or race club from being eligible to hold a licence or registration;
 - (d) disqualify the licensee or race club from holding a licence or registration;
 - (e) issue a formal warning, reprimand or caution to the licensee or race club;
 - (f) require the licensee or race club to change its business practices or other conduct;
 - (g) impose on the licensee or race club a monetary penalty.
- (3) The Commission may make disciplinary action subject to conditions.

Example for subsection (3)

Suspension continues until a licensee changes a specific business practice.

229 Monetary penalties

- (1) A monetary penalty may not be imposed under section 228(2)(g) for a contravention referred to in section 227(1)(c)(ii).
- (2) The amount of a monetary penalty imposed under section 228(2)(g) must not exceed 1 000 penalty units.

- (3) A licensee or race club must pay any monetary penalty imposed on the licensee or race club within 28 days, or any longer period allowed by the Commission, after notice of the penalty is given to the licensee or race club.
- (4) To avoid doubt, the monetary penalty is a civil penalty for the purposes of the *Penalty Units Act 2009*.
- (5) A monetary penalty imposed as disciplinary action may be recovered as a debt due and payable to the Territory.

230 Limit on monetary penalty

- (1) No monetary penalty may be imposed against a licensee or race club for a contravention of this Act if:
 - (a) the licensee or race club is issued an infringement notice in relation to that contravention; or
 - (b) the licensee or race club is being prosecuted for an offence in relation to that contravention.
- (2) Despite subsection (1), a monetary penalty may be imposed by the Commission against a licensee or race club specified in subsection (1) if:
 - (a) the infringement notice is withdrawn; or
 - (b) the prosecution is discontinued.
- (3) The Commission must consider any penalty imposed by a court of competent jurisdiction on a licensee or race club when taking disciplinary action against a licensee or race club.
- (4) In this section:

infringement notice means a notice prescribed by regulation served on a person alleged to have committed an offence for the payment of a prescribed amount instead of a penalty imposed for the offence.

Division 4 Hearings

231 Commission hearings

- (1) The Commission may conduct the following hearings:
 - (a) a disciplinary hearing into any matter for which it believes there may be grounds for taking disciplinary action;

- (b) a hearing to resolve a complaint lodged with the Commission.
- (2) The Commission may hear a matter not referred to it but which arises from a matter that was referred to it.
- (3) Two or more related matters may be heard jointly or at the same time.

232 Notice of hearing

- (1) Before conducting a hearing, the Commission must give the parties to the hearing written notice of the hearing.
- (2) The notice of the hearing must include the following:
 - (a) the time and place of the hearing;
 - (b) a summary of the rights of the parties to participate in the hearing.
- (3) The time and place for the hearing must be at least 10 business days after the day the notice is given to the parties unless exigent circumstances justify a shorter period.

233 Participation at hearing

- (1) The parties to a hearing have a right to participate in a hearing and to legal representation.
- (2) A person summoned to attend or who appears as a witness in a hearing may be represented by a legal practitioner.
- (3) A party who is not represented by a legal practitioner:
 - (a) is entitled to be supported by and to consult with another person during a hearing; and
 - (b) is not entitled to be represented by that other person.
- (4) A party may give evidence and make submissions in relation to a disciplinary hearing.

234 Power to issue summons

The Commission may, on the application of a party to a proceeding or on its own initiative, issue a summons requiring a person to appear before it at a specified time and place to give evidence or produce evidentiary material.

235 Power to deal with contempt

The Commission may direct a person to leave the place of a hearing and may continue the proceeding in the person's absence if the person engages in contempt.

236 Conduct of hearing

- (1) When conducting a hearing, the Commission must:
 - (a) comply with the rules of natural justice; and
 - (b) act as quickly and with as little formality and technicality as possible with appropriate consideration of the matters before it.
- (2) The Commission is not bound by the rules of evidence and may inform itself in any manner it considers appropriate.
- (3) The Commission may make rules for the conduct of hearings not inconsistent with this Act.
- (4) The Commission may adjourn a hearing at any time to make further enquiries or for another purpose.
- (5) A hearing is not open to the public unless the Commission otherwise decides.

237 Record of hearing

- (1) The Commission must keep a record of the evidence given and submissions made at a hearing.
- (2) The Commission is not required to keep a transcript of a hearing.

238 Decision

- (1) On completing the hearing of a disciplinary matter, the Commission must:
 - (a) dismiss the matter if satisfied that there are no grounds for taking disciplinary action; or
 - (b) take disciplinary action if satisfied that there are grounds to do so.
- (2) On completing the hearing of a complaint, the Commission may take no action or any action referred to in section 224(2).

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- (3) After making a decision under subsection (1) or (2), the Commission must give:
- (a) a decision notice to the parties to the hearing; and
 - (b) a copy of the decision notice to any person not a party who made a complaint under section 220 that initiated the hearing.
- (4) Any action imposed on a person takes effect on the later of the following:
- (a) the day the decision notice is served on the person;
 - (b) the day specified in the decision notice.
- (6) The Commission must publish a notice of any disciplinary action taken by the Commission.

Division 5 Review by NTCAT

239 Review by NTCAT

- (1) The NTCAT has jurisdiction to review the following:
- (a) a decision of the Commission to issue, refuse to issue, renew or refuse to renew a licence under section 140;
 - (b) a decision of the Commission to refuse to approve a change in associated persons and shareholders under section 157;
 - (c) a decision of the Commission to refuse to approve an arrangement or agreement under section 177;
 - (d) a direction by the Commission under section 50(1), 168(1), 182(2), 213(1), 214(1), 224(2)(b), 226(2)(d) or 255(1);
 - (e) a decision of the Commission to declare a wager void under section 209 or valid under section 210;
 - (f) a decision of the Commission to prohibit the opening of an account under section 211;
 - (g) a decision or action referred to in section 224 in relation to a complaint in relation to a wager if:
 - (i) the amount of the wager is more than the amount prescribed by regulation; or
 - (ii) the amount of the pay out on the wager would be more than the amount prescribed by regulation;

- (h) any disciplinary action taken by the Commission under section 228;
 - (i) a decision of the Director to refuse to return a seized thing under section 252;
 - (j) a decision of the Director on forfeiture under section 253.
- (2) Any person entitled to receive a decision notice in relation to a decision, action or direction specified in subsection (1) has the right to apply for review of the decision, action or direction.
- (3) The person's right to have a decision, an action or direction reviewed by NTCAT must be stated in the decision notice, notice of the action or direction.
- (4) An application to the NTCAT for review must be made within 14 days after the day the person making the application received the decision notice or was subject to the action that is the subject of the review.

Note for section 239

The Northern Territory Civil and Administrative Act 2014 sets out the procedure for applying to the NTCAT for review and other relevant matters in relation to reviews.

240 Grounds of review

An application for review to NTCAT may only be made under this Act on one or more of the following grounds:

- (a) the decision, action or direction of the Commission or the Director was wrong in law;
- (b) the decision, action or direction of the Commission or the Director was made against the weight of the evidence;
- (c) the Commission or the Director improperly exercised discretion or otherwise acted unlawfully;
- (d) the Commission or the Director did not act in good faith;
- (e) the Commission or the Director acted contrary to the principles of natural justice.

241 Stay of operation of decisions

- (1) The NTCAT may grant a stay of a decision, action or direction that is subject to its review.

- (2) A stay may be granted on conditions and has effect for the period specified by the NTCAT.
- (3) An application for review of a decision, action or direction does not affect the effect of the decision, action or direction unless the decision is stayed.
- (4) If subject to an application for review by NTCAT, the following are automatically stayed pending the review:
 - (a) a decision of the Commission to declare a wager void under section 209 or valid under section 210;
 - (b) a notice from the Commission to prohibit the opening of an account under section 211;
 - (c) a direction issued by the Commission to close an account under section 213;
 - (d) a direction issued by the Commission to terminate an association, arrangement or agreement under section 214;
 - (e) disciplinary action taken by the Commission under section 228;
 - (f) a decision by the Director to return a seized thing under section 252.

Part 9 Regulatory compliance

Division 1 Inspections

242 Entry and inspections by inspector

- (1) An inspector may enter and inspect the following places at any time the place is open or appears to be in use:
 - (a) any place licensed or registered under this Act;
 - (b) any place operated or used by a licensee, whether located in the Territory or not.

Note for subsection (1)(b)

It is a condition of every licence that the licensee consents to inspections of any premises it operates or uses, wherever they are located.

- (2) An inspector may, at any time, enter and inspect any place if the inspector believes on reasonable grounds that:
 - (a) racing or wagering is being conducted at, on or in the place; or
 - (b) an animal used in racing is being kept at, on or in the place; or
 - (c) an offence against this Act has occurred, is occurring or is likely to occur at, on or in the place.
- (3) Having entered a place, an inspector may remain at the place for as long as is reasonably necessary to enable the inspector to perform the inspector's functions.

243 Residential premises

- (1) Despite anything to the contrary in this Part, an inspector must not enter or exercise search powers in relation to any part of a place used for residential purposes except in the following circumstances:
 - (a) the occupier consents to the entry or search;
 - (b) the place appears to have no current occupant;
 - (c) the entry is authorised by a warrant;
 - (d) the entry is necessary in an emergency.
- (2) An inspector seeking an occupier's consent to enter a place must:
 - (a) show the inspector's identity card to the occupier; and
 - (b) give the occupier the reasons why the entry is sought; and
 - (c) inform the occupier that the occupier may refuse to give consent.
- (3) An inspector is not entitled to remain in the place if the inspector does not show the identity card to an occupier of the place.

244 Powers of inspector

- (1) An inspector may, during an inspection of a place or for a purpose in relation to compliance with or enforcement of this Act, exercise any of the following powers:
 - (a) examine, make an inventory of and take samples of any thing at the place or belonging to or in the possession of a licensee that the inspector believes on reasonable grounds to be related to racing or wagering;

- (b) inspect any book, document or other record at the place or belonging to or in the possession of a licensee;
 - (c) remove any book, document or record at the place or belonging to or in the possession of a licensee for the purpose of having copies made;
 - (d) seize and remove any thing that the inspector believes on reasonable grounds to be evidence of an offence against this Act;
 - (e) direct a licensee or any person at the place to remain for a reasonable period specified by the inspector;
 - (f) direct a licensee or any person at the place to answer questions;
 - (g) direct a licensee or any person at the place to produce a document or thing under the licensee's or person's control;
 - (h) direct a licensee or any person at the place to give any other reasonable assistance the inspector requires to carry out the inspection.
- (2) To avoid doubt, the powers in subsection (1) may be exercised in relation to a licensee without entering a place referred to in section 242(1).
- (3) A licensee or person given a reasonable request under subsection (1) must immediately comply with that request.
- (4) An inspector may retain a book, document or record removed or produced under subsection (1) for as long as reasonably necessary to make copies of the book, document or record.
- (5) An inspector may exercise the powers under this section with the reasonable assistance and force that the inspector considers necessary.
- (6) Any thing seized under this section is to be dealt with in accordance with Division 2.

245 Assistance

- (1) An inspector may, while exercising a power or performing a function, be accompanied and assisted by a person authorised by the Director.

- (2) A person assisting an inspector under subsection (1) may exercise the powers of an inspector that are reasonably necessary for that purpose.
- (3) When exercising a power or performing a function under subsection (1), the person assisting the inspector must provide their name and purpose to any person who questions their right to exercise the power or perform the function.

246 Personal electronic devices

Nothing in this Act authorises or permits an inspector to:

- (a) inspect or seize a personal electronic device without a search warrant; or
- (b) require a person to answer questions or provide information in relation to any such device.

Division 2 Seizures

247 Power to seize evidence

- (1) At a place being inspected or searched under this Act, an inspector may seize any thing at the place if the inspector believes on reasonable grounds that:
 - (a) the thing is evidence of an offence against this Act; and
 - (b) its seizure is necessary to prevent the thing being hidden, lost or destroyed or used to continue or repeat an offence against this Act.
- (2) To avoid doubt, an inspector who enters a place with a search warrant may seize anything authorised by the warrant.

248 Receipt for seized things

- (1) Subject to this section, as soon as practicable after an inspector seizes a thing, the inspector must give a receipt for it to the person from whom it was seized.
- (2) If it is not reasonably practicable to comply with subsection (1), the inspector must leave the receipt in a conspicuous and reasonably secure position at the place of seizure.
- (3) The receipt must include the following information:
 - (a) a general description of each thing seized and its condition;

- (b) the date of seizure;
 - (c) the name and identity number of the inspector;
 - (d) the identity and position of the person from whom the thing was seized;
 - (e) the place where the seizure was made.
- (4) No receipt is required to be given if it is impracticable or would be unreasonable to give the receipt because of the thing's nature, condition or value.

249 Powers related to seizures

- (1) An inspector may do any of the following:
- (a) move a seized thing from the place of seizure;
 - (b) take reasonable steps to restrict access to a seized thing at the place of seizure;
 - (c) dismantle, or cause to be dismantled, any seized equipment;
 - (d) require the person in control of a seized thing:
 - (i) to take it to a reasonable place by a reasonable time; and
 - (ii) to remain in control of it at the place for a reasonable time.

Examples for subsection (1)(b)

1 *Sealing a thing and marking it to show access to it is restricted.*

2 *Sealing the entrance to a room where the seized thing is situated and marking it to show access to it is restricted.*

- (2) A requirement imposed on a person under this section must be:
- (a) made by written notice; or
 - (b) if it is not practicable to give it in writing – made orally and confirmed by written notice as soon as practicable.
- (3) A person who is required to do something by an inspector under this section must comply with the inspector's requirements.

250 Offences related to seized things

- (1) A person commits an offence if the person:
 - (a) is in control of a seized thing; and
 - (b) is required by an inspector to do something under section 249(1)(d); and
 - (c) fails to comply with the inspector's requirements.

Maximum penalty: 100 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.

- (3) A person commits an offence if:
 - (a) an inspector restricts access to a seized thing; and
 - (b) the person intentionally tampers or interferes with:
 - (i) the thing; or
 - (ii) something restricting access to the thing; and
 - (c) the person does not have an inspector's approval to engage in that conduct.

Maximum penalty: 100 penalty units or imprisonment for 6 months.

- (4) Strict liability applies to subsection (3)(a) and (c).

- (5) A person commits an offence if:
 - (a) the person intentionally tampers or interferes with a thing; and
 - (b) that conduct obstructs an analysis of the thing under this Act.

Maximum penalty: 100 penalty units or imprisonment for 6 months.

- (6) Strict liability applies to subsection (5)(b).

251 Analysis

- (1) The Director may arrange for the analysis of a thing or sample taken by an inspector under this Part.
- (2) The analysis must be conducted in accordance with any method of analysis prescribed by regulation.

- (3) The Director must obtain a certificate or report stating the result of the analysis.
- (4) A person must not tamper or interfere with a thing to obstruct its analysis under this Part.

252 Return of seized things

- (1) The Director must, on request, return a seized thing to the owner or person entitled to possess it, unless:
 - (a) the Director has reasonable grounds to retain the thing; or
 - (b) the thing is required as evidence; or
 - (c) the thing is forfeited to the Territory.
- (2) If a seized thing is not returned on request, the Director must give a decision notice to the owner or person entitled to possess the seized thing.

253 Forfeiture of seized things

- (1) A seized thing is forfeited to the Territory if the Director:
 - (a) cannot find the owner or person entitled to possess it, after making reasonable inquiries; or
 - (b) cannot return it to the owner or person entitled to possess it, after making reasonable efforts; or
 - (c) believes on reasonable grounds that forfeiture is necessary to prevent the thing from being used to commit an offence against this Act.
- (2) The Director must give a decision notice of any forfeiture under subsection (1)(c) to the owner or person entitled to possess the thing, unless:
 - (a) the Director cannot find the person, after making reasonable inquiries; or
 - (b) it is impracticable or would be unreasonable to give the notice.
- (3) In deciding what is reasonable under this section, regard must be had to a thing's nature, condition and value.
- (4) Any costs reasonably incurred by the Territory in storing or disposing of a thing forfeited under subsection (1)(c) may be recovered from the owner of the thing as a debt due and payable to the Territory.

254 Access to seized things

- (1) Until a seized thing is forfeited or returned, the Director must permit the following persons to inspect it and, in the case of a document, to make copies of it at all reasonable times:
 - (a) the person from whom the thing was seized;
 - (b) the owner of the thing;
 - (c) a person entitled to possess the thing;
 - (d) a person authorised by a person referred to in paragraphs (a) to (c).
- (2) The Director is not required to permit inspection or copying under subsection (1) if it is impracticable or unreasonable.

Division 3 Immediate suspension of licence

255 Direction for immediate suspension

- (1) The Commission may issue a direction to a licensee to immediately suspend the licence if the Commission believes on reasonable grounds that there is a significant risk to the public interest.
- (2) The direction must:
 - (a) state that the licence is suspended on the giving of the notice; and
 - (b) state the grounds for the immediate suspension; and
 - (c) summarise the possible disciplinary action that may be taken against the licensee; and
 - (d) summarise the procedure for taking disciplinary action.
- (3) The suspension takes effect immediately on the giving of the direction to the licensee.
- (4) A licence may be suspended under this section, regardless of whether disciplinary action is commenced against the licensee.
- (5) The Commission may conduct a disciplinary hearing in relation to the immediate suspension in accordance with Part 8, Division 4 if there are grounds to do so, regardless of whether the licensee applies to NTCAT for a review of the suspension.

Division 4 Enforceable undertakings

256 Enforceable undertaking

- (1) An undertaking under this Division is an enforceable promise given by a person who is alleged to have contravened this Act, in exchange for the stay of any prosecution or any disciplinary action in respect of the contravention, to do one or more of the following:
 - (a) to undertake one or more specified actions for the general improvement of the racing or wagering industry, within the period specified in the undertaking;
 - (b) to notify a person or a class of persons or the general public, as specified in the undertaking, of the contravention and its consequences;
 - (c) to not commit, during the period specified in the undertaking, any offence against this Act;
 - (d) to do or refrain from doing any action related to racing or wagering specified in the undertaking;
 - (e) to pay the reasonable costs of the Director or the Commission related to the alleged contravention, the undertaking and ensuring future compliance by the person;
 - (f) any related matters.
- (2) An undertaking may contain any terms and conditions that the Commission considers necessary to promote the purposes of this Act or to ensure compliance with this Act.
- (3) An undertaking must include time limits for the performance of any obligations and a method to monitor compliance with the undertaking.
- (4) The process of negotiating an undertaking is without prejudice to any party's position.

257 Acceptance of undertaking

- (1) The Commission may accept an undertaking for an alleged contravention after a prosecution for the alleged contravention has commenced.
- (2) The following criteria must be considered before an undertaking is accepted:
 - (a) the nature and gravity of the conduct;

- (b) the maximum penalty provided for the alleged contravention;
- (c) the benefits of the proposed undertaking and the public interest;
- (d) the interests of justice;
- (e) any other factor that the Commission considers relevant.

Note for subsection (2)

Section 42 allows the Commission to make guidelines about accepting undertakings.

- (3) An undertaking must not be accepted unless it provides benefits for the racing or wagering industry and the community.
- (4) The Commission must give written notice to the person offering an undertaking, whether or not the person's undertaking is accepted.
- (5) A decision by the Commission to not accept an undertaking is not subject to review by NTCAT.

258 Effect on prosecution and disciplinary action

- (1) Subject to this section, no prosecution or disciplinary action for an alleged contravention of this Act may be commenced or continued against a person if an undertaking in relation to the contravention:
 - (a) is in effect; or
 - (b) is completely discharged.
- (2) The giving of an undertaking does not constitute an admission of guilt by the person giving it in relation to the alleged contravention or offence.
- (3) After accepting an undertaking from a person, the Commission must take reasonable steps to have any prosecution or disciplinary action against the person discontinued as soon as possible.
- (4) A prosecution and disciplinary action may be instituted or resumed against a person who gave an undertaking in respect of the alleged contravention or offence if the undertaking is not complied with.
- (5) The Commission must give a written notice to the person who gave the undertaking stating whether the undertaking was or was not complied with.

259 Undertaking is enforceable

An undertaking takes effect and becomes enforceable on the later of the following:

- (a) when the person giving the undertaking is notified of its acceptance by the Commission;
- (b) any later day specified in the undertaking.

260 Variation or withdrawal of undertaking

- (1) A person who gave an undertaking may, at any time, with the written consent of the Commission, vary or withdraw the undertaking.
- (2) The provisions of an undertaking relating to an alleged contravention must not be varied to provide for a different contravention.

261 Order regarding contravention of undertaking

- (1) The Commission may apply to the Local Court for an order under this section if a person contravenes an undertaking.
- (2) If satisfied that a person contravened an undertaking, the Local Court may make one or more of the following orders:
 - (a) an order directing the person to comply with the undertaking;
 - (b) an order discharging the undertaking;
 - (c) an order directing the person to pay to the Territory the costs of the proceedings;
 - (d) an order directing the person to pay to the Territory the reasonable costs of the Commission monitoring compliance with this Act in the future;
 - (e) any other order the Local Court considers appropriate in the circumstances.
- (3) Nothing in this section prevents the prosecution of the alleged contravention or offence that was the subject of the undertaking.

262 Publication of undertaking

Any undertaking accepted by the Commission must be published by the Commission.

Division 5 Other powers

263 Conduct inquiries

The Director, on behalf of the Commission, may make any inquiries or conduct any investigations the Director or the Commission consider necessary for the purpose of the Director or the Commission exercising their powers or performing their functions under this Act.

264 Other powers to detect non-compliance

- (1) For the purpose of investigating what an inspector believes on reasonable grounds is a licensee's non-compliance with this Act, the inspector may make a wager, attempt to make a wager, offer to purchase or purchase a racing or wagering product or service from a licensee contrary to the licensee's licence.
- (2) An inspector need not identify themselves as an inspector when acting under subsection (1) but must not do anything additional to encourage a licensee to accept the offer or to sell the product or service.
- (3) Evidence obtained under subsection (1) is not admissible in a criminal prosecution against a person who accepted a wager or offered to sell or sold the product or service as a result of an inspector exercising powers under that subsection.
- (4) Evidence obtained under subsection (1) may be used as follows:
 - (a) as grounds for taking disciplinary action;
 - (b) to locate or identify other evidence, which may be used in a criminal proceeding.

265 Power to require information

- (1) The Director or the Commission may, by written notice, require a person to give the Director, the Commission or an inspector a document, information or thing if the Director or the Commission believes on reasonable grounds that:
 - (a) the person has or is capable of giving the document, information or thing; and
 - (b) the document, information or thing:
 - (i) is relevant to a possible contravention of this Act; or

- (ii) will assist the Director or the Commission monitor or enforce compliance with this Act.
- (2) The notice may also require the person to do one or more of the following within a reasonable period specified in the notice:
 - (a) to verify the document, information or thing by statutory declaration;
 - (b) to appear before a person appointed by the Director or the Commission and answer questions about the document, information or thing.
- (3) The notice must:
 - (a) state the belief on which the notice is being given under subsection (1); and
 - (b) specify the document, information or thing to be given; and
 - (c) specify the time, place and manner of giving the document, information or thing; and
 - (d) warn the person that a failure to comply with the requirement is an offence; and
 - (e) inform the person about the effects of sections 297 and 298; and
 - (f) inform the person that, if required to attend before another person to give information, the person may attend with a legal practitioner.

Note for subsection (3)(e)

See section 297 in relation to client legal privilege and section 298 in relation to self-incrimination.

- (4) A person to whom the notice is given must comply with the requirements of the notice.

266 Offence of failing to give information

- (1) A person commits an offence if the person:
 - (a) is given a notice under section 265; and
 - (b) has or is capable of giving the document, information or thing required by the notice; and

(c) fails to comply with a requirement of the notice.

Maximum penalty: 35 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant has a reasonable excuse.

Note for subsection (3)

The defendant has an evidential burden in relation to this defence, (see section 43BU of the Criminal Code).

267 Authority to prosecute

The Director may, on the request of the Commission, prosecute an offence against this Act.

Division 6 Offences related to compliance

268 Offence of licensee failing to comply with Commission's direction

- (1) A person commits an offence if the person:
 - (a) is a licensee or an agent or employee of a licensee; and
 - (b) is given a direction by the Commission under section 50(1), 168(1), 182(2), 213(1), 214(1), 224(2)(b), 226(2)(d) or 255(1); and
 - (c) fails to take all reasonable steps to ensure that the direction is complied with.

Maximum penalty: 50 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant has a reasonable excuse.

Note for subsection (3)

The defendant has an evidential burden in relation to this defence (see section 43BU of the Criminal Code).

- (4) An inspector may, in writing to the Director, request an investigation under section 225 against the licensee regarding conduct alleged under this section.

269 Offence to fail to comply with reasonable direction

- (1) A person commits an offence if the person fails to comply with a reasonable direction given to the person by an inspector under section 244(1)(e), (f), (g) or (h).

Maximum penalty: 50 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.
- (3) A prosecution for an offence against subsection (1) must not be commenced unless the inspector giving the requirement:
- (a) warned the person that failure to comply with the direction is an offence; and
 - (b) gave the person an opportunity to comply with the direction.

270 Providing false information to inspector

- (1) A person commits an offence if:
- (a) the person intentionally gives information to another person; and
 - (b) the other person is an inspector; and
 - (c) the information is false in a material particular and the person is reckless in relation to that circumstance; and
 - (d) the inspector is acting in an official capacity and the person has knowledge of that circumstance.

Maximum penalty: 50 penalty units.

- (2) Strict liability applies to subsection (1)(b).
- (3) In this section:

acting in an official capacity, in relation to an inspector, means the inspector is exercising powers or performing functions under, or otherwise related to the administration of, this Act.

271 Obstruction of inspector

- (1) A person commits an offence if:
- (a) the person intentionally obstructs another person; and
 - (b) the other person is an inspector; and

- (c) the inspector is acting in an official capacity and the person has knowledge of that circumstance.

Maximum penalty: 50 penalty units.

- (2) Strict liability applies to subsection (1)(b).
(3) In this section:

acting in an official capacity, in relation to an inspector, means the inspector is exercising powers or performing functions under, or otherwise related to the administration of, this Act.

obstruct includes hinder and resist.

Part 10 Other offences

Division 1 Offences related to information

272 Offence to disclose confidential information

- (1) A person commits an offence if:
- (a) the person obtains information in the course of performing a function connected with the administration of this Act or exercising a power under this Act; and
- (b) the information is confidential and the person is reckless in relation to that circumstance; and
- (c) the person intentionally engages in conduct; and
- (d) the conduct results in the disclosure of the information and the disclosure is not authorised under subsection (3); and
- (e) the person is reckless in relation to the result and circumstance referred to in paragraph (d).

Maximum penalty: 200 penalty units or imprisonment for 2 years.

- (2) Strict liability applies to subsection (1)(a).
(3) For subsection (1)(d), disclosure of information is authorised if disclosed:
- (a) for a purpose connected with the administration of this Act, including a legal proceeding arising out of the operation of this Act; or

- (b) to the Auditor General appointed under the *Audit Act 1995*; or
 - (c) to the Commissioner appointed under the *Taxation Administration Act 2007*; or
 - (d) to a person or body responsible for regulating wagering in another jurisdiction with whom the Commission has an arrangement for the sharing of information; or
 - (e) for a purpose connected with the enforcement of the Criminal Code or a law of a State, another Territory or the Commonwealth related to misconduct in the racing or wagering industry; or
 - (f) to a person who is otherwise entitled to the information.
- (4) If the information referred to in subsection (1) relates to a person, it is a defence to a prosecution for an offence against that subsection if the person consented to the disclosure of the information.

Note for section 272

In addition to the circumstances mentioned in this section, a person who discloses information mentioned in this section will not be criminally responsible for an offence if the disclosure is justified or excused by or under a law (see section 43BE of the Criminal Code).

273 Misleading information

- (1) A person commits an offence if:
- (a) the person intentionally gives a document or other information to another person; and
 - (b) the other person is the Director, the Commission or an inspector; and
 - (c) the document or information is misleading and the person has knowledge of that circumstance; and
 - (d) the Director, the Commission or an inspector is acting in an official capacity and the person has knowledge of that circumstance.

Maximum penalty: 200 penalty units.

- (2) Strict liability applies to subsection (1)(b).

- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant, when giving the document or information:
- (a) draws the misleading aspect of the document or information to the other person's attention; and
 - (b) to the extent to which the defendant can reasonably do so – gives the other person the information necessary to remedy the misleading aspect of the information or document.

Note for subsection (3)

The defendant has an evidential burden in relation to this defence (see section 43BU of the Criminal Code).

- (4) In this section:

acting in an official capacity, in relation to the Director, the Commission or an inspector, means the person is exercising powers or performing functions under, or otherwise related to the administration of, this Act.

274 Falsely representing to be inspector

A person commits an offence if the person:

- (a) intentionally represents, by words or conduct, that the person or another person is an inspector; and
- (b) knows the representation is false.

Maximum penalty: 50 penalty units.

275 Offences about misrepresentation of identity

- (1) A person must not misrepresent the person's identity for the purpose of making a wager.
- (2) A person commits an offence if the person:
- (a) intentionally makes a wager; and
 - (b) intentionally misrepresents the person's identity to a licensee or the licensee's employee at the time of purchase.

Maximum penalty: 100 penalty units.

- (3) A person commits an offence if:
- (a) the person intentionally presents a document or information to make a wager; and

- (b) the document or information could reasonably be taken to be a form of identification of the person and the person has knowledge of that circumstance; and
- (c) the document or information is fictitious or false in respect of the person's identity or relates to another person's identity and the person has knowledge of that circumstance.

Maximum penalty: 100 penalty units.

(4) A person commits an offence if:

- (a) the person intentionally provides a form of the person's identification to another person; and
- (b) the other person uses the identification to misrepresent the other person's identity to make a wager; and
- (c) the person is reckless in relation to the circumstance in paragraph (b).

Maximum penalty: 100 penalty units.

(5) Strict liability applies to subsection (4)(b).

Division 2 Offences related to children

276 Prohibitions relating to children

- (1) A child is prohibited from wagering.
- (2) A child is prohibited from being employed in the operations under a licence.
- (3) Despite subsection (2), the Commission may, by written notice, give permission to a licensee to employ a child undergoing employment training.
- (4) The Commission may give the permission generally on its own initiative or on application by a licensee.

277 Wagering with children

- (1) A person commits an offence if:
 - (a) the person is a wagering licensee; and
 - (b) the person intentionally conducts wagering with another person; and

- (c) the other person is:
 - (i) a child; or
 - (ii) acting on behalf of a third person who is a child.

Maximum penalty: 2 500 penalty units.

- (2) Strict liability applies to subsection (1)(a) and (c).
- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant believed on reasonable grounds that the person was at least 18 years of age.

Note for subsection (3)

The defendant has an evidential burden in relation to this defence (see section 43BU of the Criminal Code).

278 Employing children

- (1) A person commits an offence if:
 - (a) the person is a wagering licensee; and
 - (b) the person employs a child in the operations under a licence; and
 - (c) the person does not have permission from the Commission under subsection 276(3).

Maximum penalty: 250 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant took reasonable steps and exercised due diligence to prevent the commission of the offence.
- (4) The defendant has a legal burden of proof in relation to a matter mentioned in subsection (3).

279 Child's misrepresentation of age

A person commits an offence if:

- (a) the person intentionally provides a form of the person's identification to a child; and
- (b) the child intends to use the identification to misrepresent the child's identity or age to make a wager; and

- (c) the person is reckless in relation to the circumstance in paragraph (b).

Maximum penalty: 50 penalty units.

Division 3 Offences related to proceedings

280 Contempt

A person commits an offence if:

- (a) the person intentionally engages in conduct; and
- (b) the conduct constitutes contempt of the Commission, the Tribunal or a panel of the Tribunal and the person is reckless in relation to that circumstance.

Maximum penalty: 100 penalty units.

281 Failure to comply with summons

- (1) A person commits an offence if the person:

- (a) is given a summons under this Act; and
- (b) fails to comply with the summons.

Maximum penalty: 50 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against subsection (1) if the defendant has a reasonable excuse.

Note for subsection (3)

The defendant has an evidential burden in relation to this defence (see section 43BU of the Criminal Code).

Part 11 Criminal responsibility and evidence

Division 1 Criminal responsibility

282 Criminal responsibility of individual for employee or agent

- (1) A physical element of an offence committed by an employee or agent of an individual must also be attributed to the individual if the employee or agent was acting within:
 - (a) the actual or apparent scope of the employee's or agent's employment; or
 - (b) the employee's or agent's actual or apparent authority.
- (2) If intention, knowledge or recklessness is a fault element in relation to a physical element of an offence committed by an employee or agent of an individual, that fault element must be attributed to the individual if the individual expressly, tacitly or impliedly authorised or permitted the commission of the offence.

Note for section 282

Part IIAA, Division 5, of the Criminal Code provides for the criminal responsibility of a body corporate for its employees and agents.

283 Criminal responsibility of executive officer of body corporate

- (1) An executive officer of a body corporate is criminally responsible for an offence against this Act committed by the body corporate.
- (2) It is a defence to a prosecution for an offence under subsection (1) if the defendant establishes that the defendant:
 - (a) was not in a position to influence the conduct of the body corporate in relation to the commission of the offence; or
 - (b) took reasonable steps to prevent the commission of the offence; or
 - (c) did not know, and could not reasonably have been expected to know, that the offence would be committed.
- (3) The defendant has a legal burden of proof in relation to a matter referred to in subsection (2).

- (4) In deciding whether the defendant took reasonable steps to prevent the commission of the offence, a court of competent jurisdiction must consider the following to the extent relevant:
- (a) any action the defendant took towards ensuring that:
 - (i) the body corporate arranged regular professional assessments of the body corporate's compliance with the Act; or
 - (ii) the body corporate implemented any appropriate recommendation arising from an assessment referred to in subparagraph (i); or
 - (iii) the body corporate's employees and agents had reasonable knowledge and understanding of the requirement to comply with the provision to which the offence relates;
 - (b) any action the defendant took after the defendant became aware that the offence could be, or was about to be, committed.
- (5) Subsection (4) does not limit the matters the court may consider.
- (6) This section does not affect the liability of the body corporate.
- (7) This section applies to an executive officer whether or not the body corporate is prosecuted for, or found guilty of, the offence for which the executive officer is prosecuted.
- (8) Without limiting any other defence available to the executive officer, an executive officer may rely on a defence that would be available to the body corporate if it were prosecuted for the offence for which the executive officer is prosecuted and, in so doing, the executive officer bears the same burden of proof that the body corporate would bear.
- (9) In this section:

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.

284 Multiple contraventions

Two or more contraventions against this Act by a person that arise out of the same factual circumstances may be charged as a single offence or as separate offences.

285 Continuing offences

A court that finds a person guilty of an offence against this Act may, in addition to any penalty imposed for the offence, impose a penalty not exceeding 10% of the maximum penalty units applicable to the offence for each day the offence continues after the first day the offence is committed.

Division 2 Evidence

286 Hearsay evidence

- (1) A statement heard by an inspector while executing a lawful search under this Act is admissible in evidence in a prosecution for an offence against this Act as to the truth of the contents of the statement.
- (2) In estimating the weight, if any, to be attached to the statement, the trier of fact must consider all the circumstances from which an inference can reasonably be drawn as to the accuracy or truth of the statement including, where applicable:
 - (a) if there is evidence of greater weight reasonably available to be tendered that is not tendered; or
 - (b) the presence or absence of any incentive for any person concerned in making the statement, or dealing with the statement, to conceal or misrepresent any relevant matter in the statement.

287 Averments in complaint

In a proceeding for an offence against this Act, an averment may be made in a complaint or information as evidence in respect of the following physical elements of the offence:

- (a) that a specified person was or was not, at a specified time, licensed or registered;
- (b) that a licence or person was or was not, at a specified time, subject to a specified condition;
- (c) that a specified place was or was not, at a specified time, licensed or registered;
- (d) that a specified transaction is or is not a wager.

288 Evidentiary certificate

A certificate purporting to be signed by the Director or the Chair of the Commission specifying that a specified person was or was not licensed or registered or an inspector at a specified time is evidence of the matter specified in the certificate.

289 Possession of acknowledgement of wager

- (1) The existence of anything that may reasonably be construed as an acknowledgement of a wager is evidence of the existence of a wager and an undertaking to pay a sum of money to the holder of the thing on the happening or performance of an event or contingency.
- (2) A person in possession of a thing construed as an acknowledgement of a wager is presumed to be the holder of it.
- (3) It is not necessary to prove that the wager being acknowledged relates to any particular event or contingency.

290 Evidence that place used for wagering contrary to Act

Evidence supporting an inspector's belief that a place is being, or was, used for wagering contrary to this Act is evidence that the place is used for wagering and that a person found at the place is engaged in wagering contrary to this Act if:

- (a) the inspector is prevented from, or was obstructed or delayed in, entering the place; or
- (b) the place is fitted or provided with:
 - (i) an apparatus for the purpose of giving a warning of the entry of any person; or
 - (ii) a contrivance or means for concealing, removing or destroying evidence of a wagering.

291 Notices at place

Evidence that a document containing a notice relating to wagering was exhibited at a place is evidence that the document was exhibited by or with the permission of the owner or occupier of the place.

292 Person present at place of wagering

Evidence that a person was present at a place where wagering is being conducted, or was conducted, contrary to this Act is evidence that the person was present for the purpose of:

- (a) wagering contrary to this Act; or
- (b) taking part in the organisation or management of wagering contrary to this Act; or
- (c) operating or using any thing used in connection with wagering contrary to this Act.

293 Evidence of wagering contrary to Act

- (1) Evidence of the following is evidence that a person is engaged in wagering contrary to this Act:
 - (a) that the person offered, directly or indirectly, to conduct wagering or to lay odds contrary to this Act;
 - (b) that the person issued, or was party to the issue of, a document or thing indicating or purporting to indicate, in any manner, where or with whom or at what odds a wager may be made contrary to this Act.
- (2) A document or thing designed, adapted or intended for use, or used, for the purposes of wagering found at a place, is evidence that:
 - (a) the owner and the occupier of the place are using or allowing the place to be used for wagering; and
 - (b) the owner and the occupier of the place are carrying on the business of wagering; and
 - (c) a person found on the place is engaged in wagering.
- (3) In a proceeding against a person for an offence against this Act, it is not necessary for the prosecution to prove that a wager was made in the presence of an inspector.
- (4) Evidence of the following is evidence that a person is carrying on the business of wagering:
 - (a) that the person engaged in the conduct specified in section 9;
 - (b) that the person, directly or indirectly, offered to lay odds;

- (c) that the person issued a document indicating or purporting to indicate, in any manner, where or with whom or at what odds a wager may be made.

294 Evidence of receipt of money

In a proceeding for an offence against this Act, evidence that a person received money for the purpose alleged in the complaint or information is evidence that the money:

- (a) was invited or solicited by the person; and
- (b) was received by the person for fee, commission, reward, share or interest.

295 Procuring wagers

Evidence of the following is evidence that a person is assisting in the management of a place used for wagering contrary to this Act:

- (a) that the person knowingly took part in procuring the assembly of persons for the purpose of wagering contrary to this Act;
- (b) that the person issued, received or recorded money or tokens used in wagering or cheques given or credit provided in respect of the money or tokens or in respect of sums won or lost contrary to this Act;
- (c) that the person supervised or conducted wagering contrary to this Act.

296 Evidence of giving, receiving or paying money or other valuable thing

The giving, receiving or paying money or other valuable thing is evidence of the commission of an offence against this Act by a defendant if the court is satisfied that:

- (a) the money or other valuable thing is given to or received or paid by the defendant or a person on behalf of the defendant; and
- (b) the circumstances in which the money or other valuable thing is given, received or paid raise a reasonable suspicion that the money or thing was given, received, or paid contrary to this Act.

Division 3 Related matters

297 Client legal privilege

Nothing in this Act requires a person to produce a document that would disclose information, or otherwise provide information, that is the subject of client legal privilege.

298 Self-incrimination

- (1) A person required to answer a question, give information or produce a document under this Act is not excused from doing so on the ground that the answer, information or document might tend to incriminate the person or make the person liable to a penalty.
- (2) Despite subsection (1), any answer, information or document given is not admissible in evidence against the person in a civil or criminal proceeding except a proceeding for an offence in which the falsity or misleading nature of the answer, information or document is relevant.

299 Protection from liability

- (1) A person is not civilly liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function as any of the following:
 - (a) a member or employee of the Commission;
 - (b) the Director;
 - (c) a member of the Tribunal;
 - (d) an inspector and a person assisting an inspector under section 245.
- (2) Subsection (1) does not affect any liability the Territory, the Commission or the Tribunal would, apart from that subsection, have for the act or omission.
- (3) In this section:

exercise of a power includes the purported exercise of the power.

performance of a function includes the purported performance of the function.

300 Limitation periods

The prosecution of an offence against this Act may not be brought after 2 years after the day the conduct alleged to constitute the offence occurred.

301 Protection of witnesses

- (1) A court hearing criminal proceedings under this Act may, on the application of the Attorney-General, make an order or give directions under subsection (2) if expedient in the interests of the safety of the accused, a witness or any other person.
- (2) In addition to, and not in derogation of, any other powers of the court, the court may:
 - (a) order that the whole or a part of the proceedings before it take place in a closed court; or
 - (b) give directions that throughout or during any part of the proceedings a person or persons or class of persons, be excluded; or
 - (c) give directions prohibiting or restricting the disclosure of information with respect to the proceedings; or
 - (d) order that no report of the whole or a specified part of, or relating to, the proceedings must be published; or
 - (e) make any order and give any directions it thinks necessary for ensuring that no person, without the approval of the court, has access to any indictment, affidavit, exhibit or other document used in the proceedings or to the records of the court relating to the proceedings.

Part 12 Other matters

Division 1 Miscellaneous matters

302 Codes, guidelines and rules not required to be numbered

Section 57 of the *Interpretation Act 1978* does not apply to the following:

- (a) racing rules established or adopted by a race control body under section 51;

- (b) codes of practice, guidelines or rules established, made, issued or adopted under section 13, 42, 88(2), 163(4) or 166(1);
- (c) rules made or issued by the Tribunal or Commission under section 92(2)(b) or 236(3).

Division 2 Regulation-making power

303 Regulations

- (1) The Administrator may make regulations under this Act.

Note for subsection (1)

See section 65 of the Interpretation Act 1978.

- (2) A regulation may provide for the following:
- (a) the powers and duties of the Director, the Commission and inspectors;
 - (b) matters about licences and registrations, including the following:
 - (i) classes of licences and registrations;
 - (ii) the terms of licences and registrations;
 - (iii) conditions imposed on licences and registrations;
 - (iv) qualifications and requirements for eligibility for licences or registration;
 - (c) the regulation and control of advertising in relation to activities under this Act;
 - (d) the regulation and control of racecourses, including the fixing of prices of admission to racecourses or a specified part of them and the standards of accommodation and essential services to be provided at, in or on racecourses;
 - (e) the adjudication and settlement of complaints in connection with activities under this Act and reviews and appeals of matters under this Act;
 - (f) the amounts to be returned to customers if a runner is withdrawn from a race;
 - (g) the realisation of securities given by a licensee;

- (h) the control and regulation of the rules of racing and compliance with those rules;
 - (i) the regulation and supervision of the activities of licensees;
 - (j) wagering control systems;
 - (k) disciplinary action;
 - (l) fees payable under this Act and the recovery of costs incurred under this Act;
 - (m) taxes and levies payable under this Act;
 - (n) matters of an administrative nature.
- (3) The regulations may:
- (a) provide for an offence against a regulation to be an offence of strict or absolute liability; and
 - (b) for an offence against a regulation – prescribe a fine not exceeding 200 penalty units, other than an offence of strict liability or absolute liability; and
 - (c) for an offence against a regulation – prescribe a fine not exceeding 100 penalty units that is an offence of strict liability or absolute liability; and
 - (d) provide for the enforcement of a code of practice, including by providing that a contravention of the code is an offence against a regulation; and
 - (e) apply, adopt or incorporate, with or without changes, the whole or part of a document as in force or existing at a particular time or from time to time.

Division 3 Review of Act

304 Review of Act

- (1) The Minister must review this Act to determine whether the policy objectives of the Act remain valid and whether the provisions of this Act remain appropriate for securing those objectives.
- (2) The review must be completed within 3 years after the date of commencement of this Act.

- (3) A report on the outcome of the review is to be tabled in the Legislative Assembly within 12 months after the review is completed.

Part 13 **Repeal and transitional matters for the Racing and Wagering Act 2024**

Division 1 **Repeals**

305 **Acts repealed**

The Acts specified in the Schedule are repealed.

Division 2 **Transitional matters**

306 **Definitions**

In this Division:

commencement means the commencement of section 305.

repealed Act means the *Racing and Betting Act 1983* as in force immediately before the commencement.

307 **Licences**

- (1) A licence issued under the repealed Act that is valid immediately before the commencement continues in effect on the commencement as a licence under this Act.
- (2) A licence issued under the repealed Act that expired on 30 June 2024 continues in effect for 10 business days after the commencement as a licence under this Act.
- (3) A sports bookmaker licence granted under section 89A of the repealed Act that is valid immediately before the commencement is:
- (a) not subject to the powers and functions of the Commission after the commencement; and
 - (b) continues to be subject to the powers and functions of the Director of Totalisator Licensing and Regulation appointed under section 5 of the *Totalisator Licensing and Regulation Act 2000*.

- (4) A condition on a licence issued under the repealed Act that is valid immediately before the commencement continues in effect after the commencement as a condition under this Act, unless inconsistent with a provision of this Act.
- (5) The Commission may determine whether a condition referred to in subsection (4) is inconsistent with a provision of this Act.

308 Annual fee

- (1) A person who held a betting exchange licence or sports bookmaker licence immediately before the commencement must pay the annual fee applicable under section 142 of this Act to the equivalent licence if the person has not paid the annual licence fee payable under section 24(5) of the repealed Act during the 12 months prior to the commencement.
- (2) The fee must be paid no later than 28 days after the commencement.

309 Applications

An application for a licence that was made but not determined under the repealed Act before the commencement is to be determined by the Commission in accordance with the repealed Act as if it were not repealed.

310 Racing Commission

- (1) The Racing Commission under the repealed Act continues as the Northern Territory Racing and Wagering Commission under this Act.
- (2) A person holding office as a member of the Racing Commission, other than the Chair, immediately before the commencement, continues as a member of the Northern Territory Racing and Wagering Commission on the commencement in accordance with the terms and conditions of the person's appointment.
- (3) Despite section 19(2) of this Act, a person holding office as the Chair of the Racing Commission immediately before the commencement continues in office as the Chair of the Northern Territory Racing and Wagering Commission for a period not exceeding 6 months after the commencement.
- (4) Any acts done and matters under consideration by the Racing Commission that were not determined under the repealed Act before the commencement are to be determined by the Northern Territory Racing and Wagering Commission in accordance with the repealed Act as if it were not repealed.

- (5) Any rules of procedure for hearings by the Racing Commission under the repealed Act, in force immediately before the commencement, continue as if made by the Northern Territory Racing and Wagering Commission under section 236(3) of this Act.

311 Racing Appeals Tribunal

- (1) The Racing Appeals Tribunal established under section 145F of the repealed Act continues as the Northern Territory Racing Appeals Tribunal established by section 90 of this Act.
- (2) A person holding office as a member of the Racing Appeals Tribunal immediately before the commencement, continues as a member of the Northern Territory Racing Appeals Tribunal in accordance with the terms and conditions of their appointment.
- (3) Any acts done and matters under consideration by the Racing Appeals Tribunal that were not determined under the repealed Act before the commencement are to be determined by the Northern Territory Racing Appeals Tribunal in accordance with the repealed Act as if it were not repealed.
- (4) Any rules of procedure of the Racing Appeals Tribunal under the repealed Act, in force immediately before the commencement, continue as if made by the Northern Territory Racing Appeals Tribunal under section 92(2)(b) of this Act.

312 Inspectors

- (1) A person holding office as a betting inspector under section 22(1) or a totalizator inspector under section 120(1) of the repealed Act, immediately before the commencement, is taken to be an inspector appointed under section 32 of this Act in accordance with the terms and conditions of their appointment.
- (2) An identity card issued to a betting inspector under section 22(2) or a totalizator inspector under section 120(2) of the repealed Act and in force immediately before the commencement is taken to be an identity card issued under section 36 of this Act.

313 Codes of practice

Any codes of practice made under section 148A of the repealed Act and in effect immediately before the commencement continue to apply on commencement as if they were established or adopted under section 13 of this Act.

314 Novelty event guidelines

Any guidelines approved by the Commission under the repealed Act and in effect immediately before the commencement continue to apply on commencement as if they were established or adopted as rules on novelty events under section 166 of this Act.

315 Appeals

- (1) An appeal of a decision of the Racing Commission that was commenced but not determined by the Local Court under the repealed Act before the commencement, is to continue and be determined in accordance with the repealed Act as if that Act were not repealed.
- (2) If a person had a right under the repealed Act, immediately before the commencement, to appeal a decision of the Racing Commission, the person's right to appeal is taken to be a right to apply under this Act for review of that decision by NTCAT.

316 Wagering control system

A wagering control system that was in compliance with a condition of a licence under the repealed Act, immediately before the commencement, is taken to be a wagering control system approved by the Director under section 163 of this Act.

317 Transitional regulations

- (1) A regulation may provide for a matter of a transitional nature:
 - (a) because of the enactment of this Act; or
 - (b) to otherwise allow or facilitate the transition from the operation of the repealed Act to this Act.
- (2) The regulation may have retrospective operation to a day not earlier than the commencement.
- (3) To the extent to which the regulation has retrospective operation, it does not operate to the disadvantage of a person, other than the Territory or a Territory authority, by:
 - (a) decreasing the person's rights; or
 - (b) imposing liabilities on the person.
- (4) The regulation must declare it is made under this section.

- (5) This section, and each regulation made under it, is repealed 1 year after the commencement.

Part 14 Consequential amendments

Division 1 Associations Act 2003

318 Act amended

This Division amends the *Associations Act 2003*.

319 Section 6 amended (Secrecy)

Section 6(3)(c)(vii)

omit, insert

- (vii) the Director of Racing and Wagering, the Northern Territory Racing and Wagering Commission or another person as required under the *Racing and Wagering Act 2024*; or

Division 2 Criminal Code

320 Act amended

This Division amends the Criminal Code.

321 Section 1 amended (Definitions)

- (1) Section 1, definitions ***agreement about conduct that corrupts a wagering outcome of an event, bet, conduct that corrupts a wagering outcome of an event encourage, event (both definitions), event contingency and obtain a financial advantage***

omit

- (2) Section 1

insert

agreement about conduct that corrupts a wagering outcome of an event or contingency, for Part VII, Division 5A, see section 237A.

causing a financial disadvantage, for Part VII, Division 5A, see section 237D(2).

corrupts a wagering outcome of an event or contingency, for Part VII, Division 5A, see section 237B.

contingency, for Part VII, Division 5A, see section 237C(2).

encouraging, for Part VII, Division 5A, see section 237F.

event:

(a) except for Part VII, Division 5A, means the result of an act or omission; or.

(b) for Part VII, Division 5A, see section 237C(1)

obtaining a financial advantage, for Part VII, Division 5A, see section 237D(1).

wagering, for Part VII, Division 5, see section 9 of the *Racing and Wagering Act 2024*.

322 Part VII, Division 5A replaced

Part VII, Division 5A

repeal, insert

Division 5A Wagering Offences

Subdivision 1 Preliminary matters

237A Definitions

In this Division:

agreement about conduct that corrupts a wagering outcome of an event or contingency, means an agreement between 2 or more persons under which one or more of them agree to engage in conduct that corrupts a wagering outcome of an event or contingency.

causing a financial disadvantage, see section 237D(2).

contingency, see section 237C(2).

corrupts a wagering outcome of an event or contingency, see section 237B.

encouraging, see section 237F.

event, see section 237C(1).

obtaining a financial advantage, see section 237D(1).

wagering, see section 9 of the *Racing and Wagering Act 2024*.

237B Corrupts wagering outcome of event or contingency

Conduct **corrupts a wagering outcome of an event or contingency** if the conduct:

- (a) affects or, if engaged in, would be likely to affect the outcome of any type of wagering on the event or contingency; and
- (b) is contrary to the standards of integrity that a reasonable person would expect of persons in a position to affect the outcome of any type of wagering on the event or contingency.

237C Events and contingencies

- (1) An **event** means any event (whether it takes place in the Territory or elsewhere) on which it is lawful to wager under the laws of the Territory, a State, another Territory or the Commonwealth.
- (2) A **contingency** means any contingency on which it is lawful to wager under the laws of the Territory, a State, another Territory or the Commonwealth.

237D Obtaining financial advantage or causing financial disadvantage

- (1) **Obtaining a financial advantage** includes any of the following, whether the financial advantage is permanent or temporary:
 - (a) obtaining a financial advantage for oneself or for another person;
 - (b) inducing a third person to do something that results in oneself or another person obtaining a financial advantage;
 - (c) keeping a financial advantage that one has.
- (2) **Causing a financial disadvantage** includes any of the following, whether the financial disadvantage is permanent or temporary:
 - (a) causing a financial disadvantage to another person;
 - (b) inducing a third person to do something that results in another person suffering a financial disadvantage.

237E Proof of intention to obtain financial advantage or cause financial disadvantage

- (1) In proceedings for an offence under section 237G, 237H or 237J, the defendant is taken to have intended to obtain a financial advantage, or to cause a financial disadvantage, if, and only if, it is proved that:
 - (a) the defendant intended to obtain a financial advantage, or cause a financial disadvantage, in connection with wagering on the event; or
 - (b) the defendant knew that another person intended to obtain a financial advantage, or cause a financial disadvantage, in connection with wagering on the event or contingency, as a result of the conduct the subject of the charge.
- (2) It is not necessary to prove that any financial advantage was actually obtained or any financial disadvantage was actually caused.
- (3) In this section:

conduct the subject of the charge means:

- (a) in the case of an offence against section 237G – the conduct that the defendant engaged in; or
- (b) in the case of an offence against section 237H(1) – the conduct that the defendant offered to engage in; or
- (c) in the case of an offence against section 237H(2) – the conduct that the defendant encouraged another person to engage in; or
- (d) in the case of an offence against section 237H(3) – the conduct the subject of the agreement; or
- (e) in the case of an offence against section 237J(1) – the conduct, or the conduct the subject of the agreement, that the defendant encouraged another person to conceal.

237F Encouraging

Encouraging another person to engage in conduct includes commanding, requesting, proposing, advising, inciting, inducing, persuading, authorising, urging, threatening or placing pressure on the person to engage in the conduct.

Subdivision 2 Offences

237G Engaging in conduct that corrupts wagering outcome of event or contingency

A person commits an offence if the person:

- (a) engages in conduct that corrupts the outcome of an event or contingency; and
- (b) does so with the intention of obtaining a financial advantage, or causing a financial disadvantage, in connection with any wagering on the event or contingency.

Maximum penalty: Imprisonment for 7 years.

237H Facilitating conduct that corrupts wagering outcome of event or contingency

(1) A person commits an offence if the person:

- (a) offers to engage in conduct that corrupts a wagering outcome of an event or contingency; and
- (b) does so with the intention of obtaining a financial advantage, or causing a financial disadvantage, in connection with any wagering on the event or contingency.

Maximum penalty: Imprisonment for 7 years.

(2) A person commits an offence if the person:

- (a) encourages another person to engage in conduct that corrupts a wagering outcome of an event or contingency; and
- (b) does so with the intention of obtaining a financial advantage, or causing a financial disadvantage, in connection with any wagering on the event or contingency.

Maximum penalty: Imprisonment for 7 years.

(3) A person commits an offence if the person:

- (a) enters into an agreement about conduct that corrupts a wagering outcome of an event or contingency; and
- (b) does so with the intention of obtaining a financial advantage, or causing a financial disadvantage, in connection with any wagering on the event or contingency.

Maximum penalty: Imprisonment for 7 years.

237J Concealing conduct or agreement about conduct that corrupts wagering outcome of event or contingency

- (1) A person commits an offence if the person:
- (a) encourages another person to conceal from any appropriate authority conduct, or an agreement about conduct, that corrupts a wagering outcome of an event or contingency; and
 - (b) the conduct mentioned in paragraph (a) is engaged in with the intention of obtaining a financial advantage, or causing a financial disadvantage, in connection with any wagering on the event or contingency.

Maximum penalty: Imprisonment for 7 years.

- (2) Subsection (1)(b) is the fault element for the conduct in subsection (1)(a).
- (3) In this section:

appropriate authority includes a body that has the official function of controlling, regulating or supervising an event or contingency or any wagering on an event or contingency.

237K Use of corrupt conduct information for wagering

- (1) A person commits an offence if:
- (a) the person possesses information in connection with an event or contingency; and
 - (b) the information is about conduct, or proposed conduct, that corrupts a wagering outcome of an event or contingency; and
 - (c) the person:
 - (i) wagers on the event or contingency; or
 - (ii) encourages another person to wager on the event or contingency in a particular way; or
 - (iii) communicates the information mentioned in paragraph (b), or causes that information to be communicated, to another person whom the first person knows or ought reasonably to know would or would be likely to wager on the event or contingency.

Maximum penalty: Imprisonment for 7 years.

- (2) In proceedings for an offence against subsection (1)(c)(ii) or (iii), it is not necessary to prove that the person encouraged to wager, or to whom information was communicated, actually wagered on the event or contingency concerned.

237L Use of inside information for wagering

- (1) A person commits an offence if:
- (a) the person possesses information in connection with an event or contingency; and
 - (b) the information is inside information; and
 - (c) the person:
 - (i) wagers on the event or contingency; or
 - (ii) encourages another person to wager on the event or contingency in a particular way; or
 - (iii) communicates the information, or causes the information to be communicated, to another person whom the first person knows or ought reasonably to know would or would be likely to wager on the event or contingency.

Maximum penalty: Imprisonment for 2 years.

- (2) For subsection (1)(b), information in connection with an event or contingency is **inside information** if the information:
- (a) is not generally available; and
 - (b) if it were generally available, would, or would be likely to, influence persons who commonly wager on the event or contingency:
 - (i) in deciding whether or not to wager on the event or contingency; or
 - (ii) in making any other decision to wager on the event or contingency.
- (3) For subsection (2)(b), information is **generally available** if:
- (a) it consists of matter that is readily observable by the public; or
 - (b) it has been made known in a manner that would, or would be likely to, bring it to the attention of the public; or

- (c) it consists of deductions, conclusions or inferences made or drawn from information mentioned in paragraph (a) or (b).
- (4) In proceedings for an offence against subsection (1)(c)(ii) or (iii), it is not necessary to prove that the person encouraged to wager, or to whom information was communicated, actually wagered on the event or contingency concerned.

237M Alternative verdict

In a proceeding against a person charged with an offence against section 237K, the trier of fact may find the person not guilty of an offence against that section but guilty of an offence against section 237L if the trier of fact:

- (a) is not satisfied beyond reasonable doubt that the person committed an offence against section 237K; and
- (b) is satisfied beyond reasonable doubt that the person committed an offence against section 237L.

Division 3 Fines and Penalties (Recovery) Regulations 2001

323 Regulations amended

This Division amends the *Fines and Penalties (Recovery) Regulations 2001*.

324 Schedule 1 amended

Schedule 1

insert (in alphabetical order)

Racing and Wagering Act 2024

Division 4 Gaming Control Act 1993

325 Act amended

This Division amends the *Gaming Control Act 1993*.

326 Section 54 amended (Unlawful games)

Section 54(5)

omit, insert

- (5) In subsection (4)(a), the words "club", "meeting", "race" and "racecourse" have the same meanings as "race club", "race meeting" and "racecourse" (respectively) in section 4 of the *Racing and Wagering Act 2024*.

**Division 5 Northern Territory Civil and Administrative
Tribunal Regulations 2014**

327 Regulations amended

This Division amends the *Northern Territory Civil and Administrative Tribunal Regulations 2014*.

328 Schedule amended

Schedule, Part 3

omit

Racing and Betting Act 1983

insert

Racing and Wagering Act 2024

Division 6 Return to Work Regulations 1986

329 Regulations amended

This Division amends the *Return to Work Regulations 1986*.

330 Regulation 3A amended (Definition of *worker*)

Regulation 3A(1)(b)

omit, insert

- (b) an individual who is authorised by a club registered under the *Racing and Wagering Act 2024*; and

Division 7 Sale of NT TAB Act 2000

331 Act amended

This Division amends the *Sale of NT TAB Act 2000*.

332 Section 4 amended (Definitions)

Section 4, definition ***Commission***
omit

333 Section 9 repealed (Purchaser to be granted licence under Racing and Betting Act 1983)

Section 9
repeal

Division 8 Serious Crime Control Act 2009

334 Act amended

This Division amends the *Serious Crime Control Act 2009*.

335 Section 6 amended (Definitions)

Section 6, definition ***prescribed activity***, paragraphs (i) and (j)
omit, insert

- (i) conducting business under a licence issued under the *Racing and Wagering Act 2024*;
- (j) any activity required to be registered under the *Racing and Wagering Act 2024*;

Division 9 Sheriff Regulations 1967

336 Regulations amended

This Division amends the *Sheriff Regulations 1967*.

337 Regulation 5 amended (Mode of sale)

Regulation 5(1)
omit
registered for betting

insert

licensed for racing or wagering

Division 10 Taxation Administration Act 2007

338 Act amended

This Division amends the *Taxation Administration Act 2007*.

339 Section 3A amended (Taxation law)

After section 3A(1)(b)

insert

(ba) the *Racing and Wagering Act 2024*;

(bb) the *Totalisator Licensing and Regulation Act 2000*;

Division 11 Totalisator Licensing and Regulation Act 2000

340 Act amended

This Division amends the *Totalisator Licensing and Regulation Act 2000*.

341 Section 3 amended (Interpretation)

Section 3(1)

insert

country race meet, for Part 3A, see section 31A.

country race meet totalisator licence, for Part 3A, see section 31A.

dividend, for Part 3A, see section 31A.

investment, for Part 3A, see section 31A.

investor, for Part 3A, see section 31A.

race meeting, for Part 3A, see section 4 of the *Racing and Wagering Act 2024*.

ticket, for Part 3A, see section 31A.

342 Part 3A inserted

After section 31

insert

Part 3A Totalisators for country race meets

31A Definitions

In this Part:

country race meet means a race meeting held at a place prescribed by regulation.

country race meet totalisator licence, means a licence issued under this Part to establish and use a totalisator at a country race meet.

dividend means the amount declared to be payable in respect of a horse race, including the unit of investment.

investment means the purchase of a ticket in respect of a horse race at a country race meet.

investor means the purchaser of a ticket.

race meeting, see section 4 of the *Racing and Wagering Act 2024*.

ticket means the receipt issued from the win or place to an investor that identifies the horse race and horse on which an investment was made and the amount of the investment.

31B Country race meet totalisator licence

- (1) An association may apply to the Director for a country race meet totalisator licence to establish and use a totalisator at a country race meet.
- (2) Section 14 applies to the application.
- (3) A country race meet totalisator licence expires on 30 June in the 5th year after it is granted or renewed, unless earlier cancelled.
- (4) A country race meet totalisator licence is not transferable by the licensee.

31C Conditions on licence

- (1) A country race meet totalisator licence only authorises the use of a totalisator:
 - (a) at the country race meet specified in the licence; and
 - (b) in accordance with rules made by the Director; and
 - (c) under the care and management of a person appointed for that purpose by the licensee.
- (2) Section 57 of the *Interpretation Act 1978* does not apply to any rules referred to in subsection (1)(b).

31D Revenue from totalisator

- (1) A licensee with a country race meet totalisator licence must deduct, from the investment paid into the totalisator in respect of a race, a commission in the amount prescribed by regulation.
- (2) The commission referred to in subsection (1) must be paid to the licensee.
- (3) After deducting the commission, the licensee must pay by way of dividends as prescribed by regulation, all moneys paid into the totalisator in respect of a race.

**Division 12 Totalisator Licensing and Regulation
Regulations 2000**

343 Regulations amended

This Division amends the *Totalisator Licensing and Regulation Regulations 2000*.

344 Regulation 10 inserted

After regulation 9

insert

10 Prescribed commission

For section 31D(1) of the Act, the prescribed commission is 14.5%.

Division 13 Repeal of Part

345 Repeal of Part

This Part is repealed on the day after it commences.

Schedule Repealed Acts

section 305

<i>Racing and Betting Act 1983</i>	Act No. 50, 1983
<i>Racing and Betting Amendment Act 1985</i>	Act No. 22, 1985
<i>Racing and Betting Amendment Act (No. 2) 1989</i>	Act No. 21, 1989
<i>Racing and Betting Amendment Act 1990</i>	Act No. 39, 1990
<i>Racing and Betting Amendment Act 1991</i>	Act No. 15, 1991
<i>Racing and Betting Amendment Act 1993</i>	Act No. 48, 1993
<i>Racing and Betting Amendment Act 1994</i>	Act No. 62, 1994
<i>Racing and Betting Amendment Act 1995</i>	Act No. 19, 1995
<i>Racing and Betting Amendment Act (No. 2) 1995</i>	Act No. 47, 1995
<i>Racing and Betting Amendment Act 1998</i>	Act No. 73, 1998
<i>Racing and Betting Amendment Act 1999</i>	Act No. 74, 1999
<i>Racing and Betting Amendment Act 2000</i>	Act No. 16, 2000
<i>Racing and Betting Amendment Act 2004</i>	Act No. 26, 2004
<i>Racing and Betting Amendment Act 2006</i>	Act No. 10, 2006
<i>Racing and Betting Amendment Act 2009</i>	Act No. 38, 2009
<i>Unlawful Betting Act 1989</i>	Act No. 13, 1989
<i>Unlawful Betting Amendment Act 2004</i>	Act No. 27, 2004
