

2016

Legislative Assembly of the Northern Territory

Minister for RACING, GAMING AND LICENSING

**RACING AND BETTING LEGISLATION AMENDMENT Bill 2016**

**Serial No. 168**

**EXPLANATORY STATEMENT**

**General Outline**

This Bill creates the ability for the Northern Territory Racing Commission (the Commission) to issue a specific licence for operation of a betting exchange. Further, the Bill provides a Northern Territory racing or sporting body the power to charge a betting service provider a fee for the use of its racing or sporting information, by the betting service provider, in its betting operations.

**NOTES ON CLAUSES**

**Clause 1      Short Title**

This is a formal clause which provides for citation of the Bill. The Bill when passed will be cited as the *Racing and Betting Legislation Amendment Act 2016*.

**Clause 2      Commencement**

This clause provides that the Act commences on the day on which the Administrator's assent to this Act is declared, save for Part 3 (which provides for racing and sporting bodies to charge a product fee) which commences on the day fixed by the Administrator by *Gazette* notice.

**Clause 3      Act amended**

This clause provides that Part 2, Division 1 of the Bill amends the *Racing and Betting Act*.

**Clause 4      Section 4 amended**

This clause inserts new definitions in Section 4 required for the new betting exchange licence.

**Clause 5      Section 8 amended**

This clause insert the new term 'a betting exchange operator' into section 8(b) so that a person interested or concerned in the business carried on by a betting exchange operator may not be a member of the

Racing Commission.

**Clause 6      Section 18 amended**

This clause amends section 18(2)(c) and provides for betting exchange operators to fall under the regulation of the Commission.

**Clause 7      Section 24 amended**

This clause amends section 24 so that the Racing Commission determines the term of a new betting exchange licence. A new clause (5A) has been inserted after clause 5 to provide for a licence fee to be payable to the Racing Commission by a betting exchange licensee within 14 days of the grant, renewal or anniversary of the licence. The fee is set at 200,000 revenue units.

**Clause 8      Section 26 inserted**

This clause inserts a new section 26 after section 25 and is a replacement for repealed sections 90A and 102A which provides for the Commission to charge the costs of any investigation that the Commission sees fit to carry out when assessing a licence application made under section 90, section 102 or new section 109C.

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

This clause repeals sections 86, 88, 90A and 102A. Sections 86 and 88 are replaced later in this Bill with new sections 146B and 146A respectively. These sections were moved to a more appropriate location in the Act given they apply to all licences regulated by the Act. Sections 90A and 102A have been replaced by new section 26.

**Clause 10     Part IVA inserted**

This clause inserts new Part IVA after section 109. The new Part IVA creates a specific betting exchange licence to be granted, upon application, by the Commission and provides for various matters dealing with the application, granting, renewal and operation of a betting exchange licence.

Division 1 inserts a section that deals with definitions of some terms specific to the betting exchange licence and its associated operations.

Division 2

- inserts a number of sections that deal with requirements the applicant is obliged to meet in order to be granted a licence, and a separate section deals with those matters that the Commission must consider when assessing the application;
- it also provides that a processing fee of 200 000 revenue units must be paid at the time of lodging the application. A section inserted identifies those persons to which a betting exchange licence cannot be issued, and several sections inserted deal with the conditions and endorsements of a betting exchange licence.
- several separate sections deal with the process of renewal of a betting exchange licence, including providing for a licence renewal processing fee of 200,000 revenue units to be paid at time of application and also provides for either the Commission or the licensee to seek, and be granted,

variations to the licence conditions. It provides that the Commission must give the licensee a minimum of 28 days' notice when the Commission is of the mind to vary, add or remove licence conditions. This section also provides that the Commission must consider any representations made by the licensee when considering amendments to the licence conditions.

### Division 3

- has a number of sections inserted that deal with the need for betting exchange employees who are, as designated by the Commission, to be holding key positions within the betting exchange operation, to be licensed;
- a section inserted deals with offences by employees of the betting exchange operator;
- a section inserted also provides for the betting exchange operator to nominate a person to act as their agent in times of their absence;
- a further section inserted provides for the betting exchange licensee to be held liable for the actions of his employees and agent.

### Divisions 4

- deals with matters relating to betting exchange operations, and provides offence and penalty provisions for persons operating a betting exchange without a licence;
- a section inserted provides for an applicant to give security to the Commission upon the granting of a betting exchange licence, and allows the Commission to re-determine the security amount from time to time;
- sections inserted require the betting exchange operator to provide a receipt for each bet taken and record those bets in an approved audit log;
- several sections inserted deal with the need for the betting exchange operator to account for records kept in relation to the operation of the business, and also provides offence and penalty provisions for a betting exchange licensee or employee failing to provide records in relation to bets made with the operator when requested by an authorised person;
- sections inserted establish what is prohibited conduct for a betting exchange licensee and the steps that the Commission may take in disciplining a licensee, including reprimanding them, fining them (to a maximum of 170 penalty units) or suspending or cancelling the licence;
- this section also provides that a court can instruct the betting exchange operator to deliver the licence to the Commission and, under this circumstance, that the Commission is to release the security, provided that all monies owed to the Commission, and outstanding winning bets, have been paid;
- this division also inserts sections that provide offence and penalty provisions for business arrangements entered into by the licensee without Commission approval and that the Commission, if it sees fit, may make rules, with the approval of the responsible Minister, for the control and regulation of betting exchange operations;

- the final section inserted in this division provides for legal proceedings in respect of bets made with a betting exchange operator including providing for the Commission to declare an event (except a horse, trotting or greyhound race) unlawful for the purposes of the bet.

#### Division 5

- inserts sections dealing with the tax regime applicable to a betting exchange licence including the rate of taxation and the maximum amount of tax paid on an annual basis;
- this section includes offence and penalty provisions for the failure by a betting exchange operator to pay tax by the required date;
- this section also defines the term ‘commission’ as it applies to the betting exchange operation and the generation of revenue;
- a section inserted requires the betting exchange operator to furnish a return to the Commission on a monthly basis setting out details of bets accepted by the licensee, and provides offence and penalty provisions for failure to do so;
- a separate section has been inserted to deal with the manner in which the licensee must lodge its return, and a further section provides that the Commission may suspend the betting exchange licence if the operator fails to make a tax payment in accordance with the legislation.

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

This clause inserts a minor amendment into section 119A to allow an applicant, who has been refused a betting exchange licence under new section 109D, to lodge an appeal against that decision with the local court. A further amendment has been made to remove gender specific references.

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

This clause inserts a minor amendment into section 119C to provide for a local court, on appeal, to grant a licence to an applicant who was refused a betting exchange licence under new section 109D for not being a fit and proper person.

#### **Clause 13      Section 132 amended**

This clause introduces a new subsection (1A) inserted after section 132(1) to provide offence and penalty provisions in the case of a betting exchange licensee allowing a person who has yet to attain 18 years of age, or allowing a person on behalf of a person who is yet to attain 18 years of age, to place a bet with the licensee.

A new subsection (4A) has been inserted after section 132(4) that provides offence and penalty provisions for a person who, on behalf of a person who is yet to attain the age of 18, places a bet with a betting exchange operator, agent or employee.

A minor amendment has been made to section 132(5) to remove the gender specific reference.

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

This clause inserts new sections 146A and 146B. Section 146A is a replacement for repealed section 88 and deals with misleading information in applications made under the Act. It has been relocated to the Miscellaneous section of the *Racing and Betting Act* as it applies to bookmaker (including sports bookmaker) and betting exchange licences.

New section 146B is a replacement for section 86 and deals with court orders forbidding a person to bet with the holder of a licence granted under the *Racing and Betting Act*, and has also been relocated to the Miscellaneous section as it applies to all licences.

**Clause 15      Section 148 amended**

This clause inserts a number of references to betting exchange operators into section 148 which deals with matters in which the Administrator may make Regulations, and tidies up wording in relation to the realisation of securities.

**Clause 16      Regulations amended**

This clause provides that Part 2, Division 2 of this Bill makes amendments to the Racing and Betting Regulations.

**Clause 17      Section 21 replaced**

This clause has been amended to confirm that pro rata application fees do not apply to applications for betting exchange licences.

**Clause 18      Section 4 amended**

This clause inserts new definitions in section 4 and makes minor consequential amendments to existing definitions.

**Clause 19      Section 4A amended**

This clause inserts a minor amendment to section 4A(3) to include a reference to new Part IIIA.

**Clause 20      Section 23 amended**

This clause inserts a minor amendment into section 23 as a result of replacement of section 42 by the next clause.

**Clause 21      Section 42 replaced**

This clause has been inserted to provide a replacement of section 42. This section provides for the responsible Minister to, by *Gazette* notice, appoint a principal club and includes further actions available to the Minister associated with this appointment.

**Clause 22      Section 43 amendment**

This clause inserts a minor amendment into this section in relation to the replacement of section 42.

**Clause 23      Part IIIA inserted**

This clause provides for a new Part IIIA to be inserted after section 69. This Part provides for a NT

racing or sporting control body to approve the use of information pertaining to its events by a betting service provider.

Division 1 is inserted to make amendments to section 4 to introduce new definitions associated with Part IIIA.

Division 2 is inserted to provide the approval process for the use of NT sports information. This section requires a person to apply to a racing or sporting control body to use their information. A section inserted provides for the body to make a decision upon the application within 28 days.

A section inserted provides for the body to make conditions in relation to the approval, and a further section inserted provides for the body to cancel the approval upon breach of conditions or contravention of the Act or Regulations. A section inserts offence and penalty provisions for the unapproved use of the sports information or for a contravention of approval conditions.

Division 3 is inserted and provides for an internal review of a decision made by a control body where an applicant or holder is aggrieved by it. This review will be undertaken by the Chief Executive Officer. A section inserted defines what type of decision can be reviewed internally and what an affected person is. A section inserted sets out the process of applying for an internal review and a further section outlines the effect of the review on the decision. A section inserted outlines the matters which the Chief Executive Officer must take into account when reviewing the decision. A section inserted outlines how the review is to be conducted and determined with a further section requiring that a decision notice is to be provided. The final section inserted provides for a review of the internal review decision to be conducted by the Northern Territory Civil and Administrative Tribunal. The section defines who can seek a review from the tribunal.

#### **Clause 24      Part 10 Division 3 inserted**

This clause inserts a new Division 3 into Part 10, after section 165.

A section inserted defines commencement of the amendments. A section inserted confirms that the appointment of a principal club under the replaced section 42 still has affect under these amendments. A section inserted provides for existing agreements between NT racing control bodies to be acknowledged under the new provisions. This is to honour agreements already in place without having the betting service provider apply immediately upon the new legislation commencing.

This agreement will remain in force for a period of 2 years following commencement unless an application for approval is made to the control body prior to that date.

#### **Clause 25      Expiry of Act**

This clause provides for expiry of the *Racing and Betting Legislation Amendment Act 2016* on the day after it commences, as is usual for amending legislation.