

Racing Legislation Amendment Bill 2012

Introduction Print

EXPLANATORY MEMORANDUM

Clause Notes

- Clause 1 sets out the main purposes of the Bill. The main purposes of the Bill are to amend the **Racing Act 1958** to—
- provide for bookmakers to accept telephone and electronic bets at approved off-course premises;
 - provide for the removal of the 1% turnover cap that applies to the bookmaker's licence levy;
 - provide for the specification of further bodies in respect of which the Racing Integrity Commissioner may disclose integrity related information;
 - make other miscellaneous amendments to that Act.
- Clause 2 provides for the commencement of the Act. Subclause (1) provides that the Act comes into operation on a day or days to be proclaimed. Subclause (2) provides that if a provision of the Act does not come into operation before 31 March 2013, it comes into operation on that day.
- Clause 3 provides that in the Bill, the **Racing Act 1958** is called the Principal Act.
- Clause 4 inserts definitions of an *approved off-course premises*, *club bookmaker's licence* and *gambling and liquor inspector* in section 3(1) of the **Racing Act 1958**.

section 4C must continue to comply with any requirements prescribed by the Minister under new section 4E. The new section also provides that a controlling body must notify the applicant and the Victorian Commission for Gambling and Liquor Regulation (the Commission) of its decision and that a registered bookmaker may appeal a decision by a controlling body to refuse an approval to the appropriate Racing Appeals and Disciplinary Board.

New section 4D sets out the procedure for the cancellation, suspension or variation of the conditions of an approval by a controlling body. A registered bookmaker may appeal any decision of a controlling body under this section to the appropriate Racing Appeals and Disciplinary Board.

New section 4E provides that the Minister may prescribe or vary requirements that a registered bookmaker must comply with before a controlling body can grant the registered bookmaker approval to make or accept bets at premises other than a racecourse, using a method of communication the Minister has approved under section 4A.

New section 4F requires the Commission, if it finds or is advised that the registered bookmaker failed to comply with a condition of approval, or suspends or cancels the registration of the bookmaker, to notify the controlling body that gave an approval under section 4C in writing of any finding, advice, suspension, or cancellation as soon as practicable. The intention is to provide the Commission with the power to notify the controlling body that there is cause to consider a variation to, or suspension or cancellation of an approval granted under section 4C.

New section 4G provides that a registered bookmaker who holds an approval for approved off-course premises granted under section 4C must not carry on the business of bookmaking at those premises unless it is in accordance with the conditions of that approval specified by the controlling body including any requirements prescribed by the Minister under section 4E. The penalty for carrying on the business of bookmaking at an approved off-course premises not in accordance with the conditions of the approval is—for a first offence, 15 penalty units or imprisonment for 3 months or both; for a second offence 25 penalty units or imprisonment for 6 months or both; for a third or subsequent offence imprisonment for 12 months.

The new section 4H also defines a relevant offence. In this section a relevant offence means an offence against subsection (1), (2), (3), (4), (5) or (6) or an offence against a law of another State or Territory that would, if committed in Victoria, be an offence against subsection (1), (2), (3), (4), (5) or (6).

New section 4I prohibits a registered bookmaker, or a person on behalf of a registered bookmaker from publishing or causing to be published any prohibited advertising in relation to approved off-course premises, and the penalty for doing so. The penalty is 20 penalty units.

New section 4I(3) defines prohibited advertising. *Prohibited advertising* means any form of advertising that contains any information, term, expression, symbol or other thing that draws attention to, or can reasonably be taken to draw attention to, the approved off-course premises or the presence of bookmakers or approved substitutes in those premises, or uses a term or expression frequently associated with bookmakers or betting and associates those terms with the approved off-course premises.

- Clause 8 inserts new subsections (ia) to (id) into section 37E of the **Racing Act 1958** which provides for the Racing Integrity Commissioner to disclose integrity related information to the Australian Crime Commission, the Australian Securities and Investments Commission, the Commonwealth Services Delivery Agency (Centrelink) and the Ombudsman.
- Clause 9 amends section 37F(1) and (2) of the **Racing Act 1958** to amend the date by which the Racing Integrity Commission is required to submit an Annual Report to the Minister on the performance of his or her functions and to increase the amount of time available for the Minister to lay this report before each house of Parliament to 14 sitting days.
- Clause 10 amends section 50K(3) of the **Racing Act 1958** to provide that in the event a decision is made to impose a fine of not more than \$250, an affected person has until 5.00pm on the third day after the day the person received notice of the decision to write to the Racing Integrity Commissioner to request that the Commissioner direct the Harness Racing Victoria Racing Appeals and Disciplinary Board to hear an appeal.

Clause 17 inserts a new Part IIID in the **Racing Act 1958** which provides for the functions and powers of gambling and liquor inspectors.

New section 83T sets out the functions of gambling and liquor inspectors in relation to bookmaker's approved off-course premises. The section provides gambling and liquor inspectors with the power to inspect approved off-course premises, monitor operations and management activities at those premises, and examine machinery and equipment used and records kept at the premises.

New section 83U provides for gambling and liquor inspectors to enter and remain on any approved off-course premises.

New section 83U(2) provides that the power of entry may be exercised with the written consent of the occupier of the approved off-course premises at any time.

New section 83U(4) sets out the requirement for a gambling and liquor inspector to give the occupier of the approved off-course premises a copy of the written consent immediately.

New section 83U(5) provides that if, in any proceeding, a written consent is not produced to the court, it must be presumed, until the contrary is proved, that the occupier did not consent to entry.

New section 83V sets out the powers of gambling and liquor inspectors. Gambling and liquor inspectors may require any person in possession of, or control of, any machinery, equipment or records relating to an activity regulated by sections 4B to 4I and section 92 of the **Racing Act 1958** to produce machinery, equipment or records for inspection and answer questions or provide information relating to that machinery, equipment or records.

New section 83V(1)(c) provides the power for a gambling and liquor inspector to seize any machinery, equipment or records if they consider it necessary to do so for the purposes of obtaining evidence of the commission of an offence.

New section 83V(2) provides that any machinery, equipment or records seized may be retained until the completion of any proceedings unless a court orders otherwise under new subsection (3).

Clause 22 provides for the automatic repeal of this amending Bill on 31 March 2014. The repeal of this Bill does not affect in any way the operation of the amendments made by it (see section 15(1) of the **Interpretation of Legislation Act 1984**).