

TASMANIA

GAMING CONTROL AMENDMENT BILL 2009

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GAMING CONTROL AMENDMENT BILL 2009

(Brought in by the Treasurer, the Honourable Michael Anthony Aird)

A BILL FOR

An Act to amend the *Gaming Control Act 1993* and repeal the *Racing (Totalizator Betting) Act 1952* and *TOTE Tasmania (Racing Regulation) Act 2004* and for related purposes

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

1. Short title

This Act may be cited as the *Gaming Control Amendment Act 2009*.

2. Commencement

This Act commences on a day to be proclaimed.

3. Principal Act

In this Act, the *Gaming Control Act 1993** is referred to as the Principal Act.

*No. 94 of 1993

THIS BILL IS COGNATE WITH THE *TOTE TASMANIA (SALE) BILL 2009*

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4. Section 3 amended (Interpretation)

Section 3(1) of the Principal Act is amended as follows:

- (a) by inserting the following definition after the definition of “accredited testing facility”:

“agent endorsement” means an endorsement on a Tasmanian gaming licence that authorises the activities specified in section 76VC;

- (b) by omitting “situated in Tasmania and” from the definition of “approved location”;

- (c) by inserting the following definition after the definition of “approved location”:

“approved outlet” means premises established and used for gaming and wagering purposes pursuant to section 76ZZ or 76ZZAAA;

- (d) by omitting the definitions of “fail to comply with”, “fixed odds wagering endorsement” and “fixed odds wagering event”;

- (e) by omitting “fixed odds wagering event” from paragraph (a) of the definition of “gaming activity” and substituting “race wagering event”;

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- (f) by omitting “activity);” from paragraph (b) of the definition of “gaming activity” and substituting “activity); and”;
 - (g) by inserting the following paragraph after paragraph (b) in the definition of “gaming activity”:
 - (c) the wagering in a contingency by way of a totalizator (where the totalizator is not conducted in respect of a prohibited gaming activity);
 - (h) by omitting paragraph (b) from the definition of “gaming endorsement” and substituting the following paragraph:
 - (b) a race wagering endorsement; and
 - (i) by inserting the following paragraphs after paragraph (da) in the definition of “gaming endorsement”:
 - (db) a totalizator endorsement; and
 - (dc) an agent endorsement; and
 - (j) by omitting “contained in” from the definition of “major lottery endorsement” and substituting “on”;
 - (k) by omitting the definition of “player” and substituting the following definition:
 - “player”** means a person who (otherwise than as a licensed provider or as the employee of a

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licensed provider in the course of that employment) –

- (a) wagers on an approved sports event, race wagering event, major lottery, pools, prescribed event or simulated game; or
 - (b) wagers, through a betting exchange, on a brokered wagering event; or
 - (c) wagers on a totalizator;
- (l) by omitting the definition of “prescribed endorsement” and substituting the following definition:

“prescribed endorsement” means an endorsement on a Tasmanian gaming licence, being an endorsement that is of a kind prescribed in the regulations and authorises the activities specified in section 76W;

- (m) by inserting the following definitions after the definition of “public place”:

“race wagering” means wagering on a race wagering event or contingency other than –

- (a) brokered wagering; or

(b) totalizator wagering;

“race wagering endorsement” means an endorsement contained in a Tasmanian gaming licence that authorises the activities specified in section 76T;

“race wagering event” means a real horse race, real harness race or real greyhound race;

“racing club” means a racing club within the meaning of the *Racing Regulation Act 2004*;

- (n) by omitting “contained in” from the definition of “simulated gaming endorsement” and substituting “on”;
- (o) by omitting “contained in” from the definition of “sports betting endorsement” and substituting “on”;
- (p) by inserting the following definitions after the definition of “ticket”:

“totalizator” means a system of parimutuel betting, whether or not conducted by means of an instrument or contrivance known as a totalizator, that enables –

- (a) persons to wager on contingencies relating to a race wagering event or

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approved sports event;
and

- (b) the total amount so
wagered, less any
deductions authorised
under this Act, to be
divided among the
successful wagers;

“totalizator endorsement” means an
endorsement on a Tasmanian
gaming licence that authorises the
activities specified in
section 76VB;

“totalizator operator” means the
holder of a Tasmanian gaming
licence with a totalizator
endorsement;

“totalizator wagering” means
wagering on a totalizator;

5. Section 4 amended (Meaning of “associate”)

Section 4 of the Principal Act is amended by
inserting after subsection (2A) the following
subsection:

- (2B) A person is not taken to be an associate
of a licensed provider by reason only of
being offered or given, by that licensed
provider, a discount, concession or rebate
on any wagering or gaming.

6. Section 76B amended (Offence to conduct gaming business without endorsed Tasmanian gaming licence)

Section 76B(4) of the Principal Act is amended by omitting paragraph (c).

7. Section 76N amended (Form of gaming endorsement)

Section 76N(1) of the Principal Act is amended by omitting “premises” and substituting “approved location”.

8. Section 76R amended (Endorsing Tasmanian gaming licence with new gaming endorsement)

Section 76R(1)(b)(ii) of the Principal Act is amended by omitting “contained in” and substituting “on”.

9. Section 76S amended (Authority of Tasmanian gaming licence with sports betting endorsement)

Section 76S of the Principal Act is amended as follows:

- (a) by inserting the following paragraph before paragraph (a):
 - (aa) to conduct sports betting;

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- (b) by omitting from paragraph (b) “in Tasmania”.

10. Section 76T substituted

Section 76T of the Principal Act is repealed and the following section is substituted:

76T. Authority of Tasmanian gaming licence with race wagering endorsement

A Tasmanian gaming licence endorsed with a race wagering endorsement authorises the licensed provider, subject to this Act and any conditions to which the Tasmanian gaming licence is subject –

- (a) to conduct race wagering; and
- (b) to accept wagers on race wagering events by way of a telecommunications device situated in an approved location; and
- (c) to accept wagers on race wagering events from persons who are physically present at an approved location; and
- (d) to do all things necessarily incidental to carrying on the activities referred to in paragraphs (a), (b) and (c).

11. Section 76V amended (Authority of Tasmanian gaming licence with major lottery endorsement)

Section 76V(f) of the Principal Act is amended by omitting “paragraphs (a), (b), (c) and (d)” and substituting “paragraphs (a), (b), (c), (d) and (e)”.

12. Sections 76VB and 76VC inserted

After section 76VA of the Principal Act, the following sections are inserted in Division 4:

76VB. Authority of Tasmanian gaming licence with totalizator endorsement

A Tasmanian gaming licence endorsed with a totalizator endorsement authorises the licensed provider, subject to this Act and any conditions to which the Tasmanian gaming licence is subject, to –

- (a) conduct totalizators in respect of race wagering events and approved sports events; and
- (b) to accept totalizator wagers by way of a telecommunications device situated in an approved location; and
- (c) to accept totalizator wagers from persons who are physically present at an approved outlet; and

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- (d) to do all things necessarily incidental to carrying on the activities referred to in paragraphs (a), (b) and (c).

76VC. Authority of Tasmanian gaming licence with agent endorsement

- (1) A Tasmanian gaming licence endorsed with an agent endorsement authorises the licensed provider, subject to this Act and any conditions to which the Tasmanian gaming licence is subject, to –
 - (a) enter into and participate in arrangements with unrelated gaming or wagering providers under which the licensed provider may –
 - (i) provide electronic portals to gaming or wagering products of those providers; and
 - (ii) accept wagers on behalf of those providers; and
 - (iii) receive, in return, fees, commissions or other financial benefits; and
 - (b) do all things necessary or convenient to execute any such arrangement.

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- (2) To avoid doubt, an agent endorsement does not, of itself, authorise the holder of the endorsement to conduct a gaming activity.
- (3) For the purposes of this section, a gaming or wagering provider is taken to be unrelated to a licensed provider if –
 - (a) the gaming or wagering provider is not based in Tasmania; and
 - (b) the gaming or wagering provider –
 - (i) is not, in the case of an Australian company, a related body corporate; or
 - (ii) would not, in the case of a foreign company, be a related body corporate if the company were incorporated under Australian law.
- (4) The Commission, by written notice, may direct a licensed provider to terminate, temporarily suspend or not enter into a particular arrangement under an agent endorsement if it considers on reasonable grounds that the unrelated gaming or wagering provider is not or might not be a suitable person for the holder of a Tasmanian gaming licence to be associated with.

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- (5) In issuing a direction, the Commission is, as far as practicable, to mitigate the potential contractual and other liabilities of the licensed provider.
- (6) Without prejudice to Division 6 of Part 5, a failure to comply with a direction under this section constitutes grounds for disciplinary action under that Division in relation to the relevant prescribed licence.
- (7) In this section –

“Australian company” means a company within the meaning of the Corporations Act;

“foreign company” has the same meaning as in the Corporations Act;

“related body corporate” has the same meaning as in the Corporations Act.

13. Section 76W amended (Authority of Tasmanian gaming licence with prescribed endorsement)

Section 76W of the Principal Act is amended as follows:

- (a) by omitting “A Tasmanian” and substituting “(1) A Tasmanian”;
- (b) by inserting the following subsection:

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- (2) A Tasmanian gaming licence endorsed with a prescribed endorsement does not authorise the holder of the endorsement to conduct any of the activities authorised by a totalizator endorsement.

14. Section 76Z amended (Period of Tasmanian gaming licence)

Section 76Z of the Principal Act is amended by omitting “A Tasmanian” and substituting “Except as otherwise expressly provided by this Act, a Tasmanian”.

15. Section 76ZA amended (Tasmanian gaming licence not transferable)

Section 76ZA of the Principal Act is amended by omitting “A” and substituting “Except as otherwise expressly provided by this Act, a”.

16. Section 76ZB substituted

Section 76ZB of the Principal Act is repealed and the following section is substituted:

76ZB. Variation of Tasmanian gaming licence, &c.

- (1) The Commission may vary a Tasmanian gaming licence at any time.

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- (2) The variation may be effected –
 - (a) on the Commission's own motion, by notice to the licensed provider; or
 - (b) consequent on an application made by the licensed provider.
- (3) An application for variation must –
 - (a) be in a form approved by the Commission; and
 - (b) specify the variation sought; and
 - (c) contain any information and be accompanied by any documents the Commission requires; and
 - (d) be accompanied by the prescribed fee.
- (4) The Commission, in its discretion, may waive all or part of the prescribed fee.
- (5) In the case of an application for variation –
 - (a) the Commission may undertake such investigations as it considers appropriate; and
 - (b) section 76G applies in respect of those investigations; and
 - (c) the Commission, by written notice to the licensed provider,

may require the licensed provider to pay the whole or any part of the reasonable costs of the Commission in investigating and processing the application if those costs exceed the prescribed fee.

- (6) In the case of an application for variation, the Commission may –
 - (a) approve the application (with or without modification); or
 - (b) refuse the application.
- (7) If the Commission varies a Tasmanian gaming licence it may do so by varying the existing Tasmanian gaming licence or by issuing a replacement Tasmanian gaming licence.
- (8) To avoid doubt, the Commission may not, under this section, reduce or extend the period that any Tasmanian gaming licence is in effect.
- (9) In this section –
 - “**vary**”, a Tasmanian gaming licence, includes but is not limited to doing any or any combination of the following in respect of the licence:
 - (a) adding a condition;
 - (b) omitting a condition;

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- (c) altering a condition;
- (d) altering the conditions of an endorsement;
- (e) correcting or updating names, addresses, dates or other particulars.

17. Section 76ZC amended (Renewal of Tasmanian gaming licence)

Section 76ZC of the Principal Act is amended by inserting after subsection (9) the following subsection:

- (10) The Commission is not entitled to refuse to renew the Tasmanian gaming licence endorsed with the second totalizator endorsement unless satisfied that the licensed provider –
 - (a) is in breach of the licence or the endorsement; or
 - (b) is not a suitable person to hold a Tasmanian gaming licence or gaming endorsement; or
 - (c) an associate of the licensed provider is not a suitable person to be an associate of a licensed provider.

18. Section 76ZDB amended (Interpretation of Division)

Section 76ZDB of the Principal Act is amended as follows:

- (a) by omitting the definition of “betting exchange exclusion order”;
- (b) by omitting the definition of “excluded person”.

19. Sections 76ZDH, 76ZDI, 76ZDJ and 76ZDK repealed

Sections 76ZDH, 76ZDI, 76ZDJ and 76ZDK of the Principal Act are repealed.

20. Section 76ZDL amended (Restrictions on brokered wagering)

Section 76ZDL(c) of the Principal Act is amended by inserting “within the meaning of Subdivision 2 of division 7” after “persons”.

21. Part 4A, Division 5A inserted

After section 76ZDM of the Principal Act, the following Division is inserted in Part 4A:

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Division 5A – Totalizator operations
Subdivision 1 – Introductory

76ZEA. Application of Division

This Division applies to a Tasmanian gaming licence with a totalizator endorsement.

76ZEB. Interpretation of Division

In this Division –

“initial totalizator endorsement”
means the totalizator endorsement referred to in section 76ZED(1);

“lead-in period” means –

- (a) in respect of the initial totalizator endorsement, the 12-month period commencing on the totalizator changeover day; and
- (b) in respect of the second totalizator endorsement, the 12-month period commencing on the day on which that endorsement takes effect;

“second totalizator endorsement”
means the first totalizator endorsement placed on a Tasmanian gaming licence after a terminating event occurs;

“subsisting business agreement”
means a business agreement or arrangement in force under section 57EA, 57F or 57FA of the *Racing (Totalizator Betting) Act 1952* immediately before the totalizator changeover day;

“terminating event” means a terminating event within the meaning of section 76ZED;

“totalizator changeover day” means the day on which the *Gaming Control Amendment Act 2009* commences;

“wagering rules” means rules that a licensed provider is required to have in place pursuant to section 76ZEF(c).

Subdivision 2 – Licensing arrangements

76ZEC. Special limitations

- (1) In exercising its powers under this Act, the Commission is to ensure that no more than one totalizator endorsement is in effect at any given time.

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- (2) If the Commission grants a totalizator endorsement to any person in the expectation that an existing totalizator endorsement is for any reason ceasing to have effect, the totalizator endorsement so granted is not capable of taking effect before the existing totalizator endorsement actually ceases to have effect.
- (3) Subsections (1) and (2) cease to apply –
 - (a) 15 years after a terminating event occurs; or
 - (b) when the second totalizator endorsement ceases, for any reason, to have effect –whichever first occurs.
- (4) The following conduct is authorised for the purposes of the *Trade Practices Act 1974* of the Commonwealth and the *Competition Policy Reform (Tasmania) Act 1996*:
 - (a) the grant of a Tasmanian gaming licence with a totalizator endorsement pursuant to section 76I;
 - (b) the imposition of any endorsement or condition on a licence referred to in paragraph (a);

- (c) any conduct authorised, required or permitted by or under the terms of a licence or endorsement referred to in paragraph (a) or (b);
- (d) the making or execution of any proposed arrangement that, in the opinion of the Minister, is associated with or necessary or convenient for giving effect to a licence, endorsement or condition referred to in this section.

76ZED. Initial totalizator endorsement

- (1) On the totalizator changeover day, TOTE Tasmania is, without further authority than this section, taken to have been granted a Tasmanian gaming licence (referred to in this section as “the transitional licence”) with the following endorsements:
 - (a) a totalizator endorsement;
 - (b) an agent endorsement;
 - (c) a race wagering endorsement;
 - (d) a sports betting endorsement.
- (2) Despite section 76ZA, TOTE Tasmania may transfer the transitional licence at any time if the transfer –

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- (a) is to a TOTE subsidiary that is, within the meaning of the Corporations Act, a wholly-owned subsidiary of TOTE Tasmania; and
 - (b) has the Minister's written approval; and
 - (c) is effected on and in accordance with the conditions, if any, of that approval.
- (3) Despite section 76Z, the transitional licence (including the initial totalizator endorsement and other endorsements) continues in effect under and subject to this Act only until a terminating event occurs.
- (4) The transitional licence –
 - (a) authorises TOTE Tasmania, while holding that licence, to maintain and execute any subsisting business agreement until –
 - (i) that agreement for any reason ceases; or
 - (ii) TOTE Tasmania's entitlements and obligations under that agreement are fully and finally realised and discharged; or

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- (iii) a terminating event occurs; and
 - (b) in so far as any subsisting business agreement may expressly or impliedly allow, confers like authority on a TOTE subsidiary to which the transitional licence may be transferred.
- (5) However, subsection (4) has effect subject to section 76VC(4).
- (6) The holder of the transitional licence is not, in respect of anything done under that licence as regards the initial totalizator endorsement, subject to section 86 or Part 7 of the *Racing Regulation Act 2004*.
- (7) In this section –
 - “**terminating event**”, for the transitional licence, means –
 - (a) if TOTE Tasmania is holding that licence, any one of the following:
 - (i) the acquisition (by any person other than a TOTE subsidiary) of all of the shares in TOTE Tasmania consequent on a

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- sale or transfer of those shares;
- (ii) the vesting (in any person other than a TOTE subsidiary) of the totalizator wagering business of TOTE Tasmania consequent on a sale or transfer of that business;
- (iii) TOTE Tasmania ceases to exist;
- (iv) an event prescribed by regulations for this paragraph; or
- (b) if a TOTE subsidiary is holding that licence consequent on a transfer pursuant to subsection (2), any one of the following:
 - (i) the acquisition (by any person other than another TOTE subsidiary) of all of the shares in TOTE Tasmania or the

TOTE subsidiary
consequent on a
sale or transfer of
those shares;

- (ii) the vesting (in any
person other than
another TOTE
subsidiary) of the
totalizator
wagering business
of the TOTE
subsidiary
consequent on a
sale or transfer of
that business;
- (iii) either TOTE
Tasmania or the
TOTE subsidiary
ceases to exist;
- (iv) an event
prescribed by
regulations for this
paragraph;

“totalizator wagering business”, of
TOTE Tasmania, means that part
of the business of TOTE
Tasmania authorised by the initial
totalizator endorsement;

“TOTE subsidiary” means a
subsidiary, within the meaning of

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the Corporations Act, of TOTE
Tasmania.

76ZEE. Second totalizator endorsement

- (1) The Commission must not grant the second totalizator endorsement to any person except with the written approval of the Treasurer.
- (2) Despite section 76Z, a Tasmanian gaming licence endorsed with the second totalizator endorsement –
 - (a) has effect for a period of 50 years commencing on the day on which the endorsement takes effect; and
 - (b) is, after that 50-year period, renewable for a further period of 49 years under and in accordance with section 76ZC.
- (3) However, the following provisions apply to a Tasmanian gaming licence endorsed with the second totalizator endorsement:
 - (a) if the endorsement ceases for any reason to have effect before the nominal term of the licence expires, the licence continues in effect after that cessation (but without the endorsement) only for the remaining balance, if any, of the nominal term;

- (b) if the endorsement ceases for any reason to have effect after (or precisely when) the nominal term of the licence expires, the licence continues in effect after that cessation (but without the endorsement) only for a period of 6 months.
- (4) Nothing in subsection (3) limits the operation of section 76ZC.
- (5) The holder of a Tasmanian gaming licence endorsed with the second totalizator endorsement is not, in respect of anything done under that licence as regards that endorsement, subject to section 86 or Part 7 of the *Racing Regulation Act 2004*.
- (6) In this section –
 - “**nominal term**”, of a Tasmanian gaming licence endorsed with the second totalizator endorsement, means the 5-year period commencing on the day on which that licence takes effect.

76ZEF. Special conditions

A Tasmanian gaming licence with a totalizator endorsement is, in addition to any other conditions it may have, subject to the following special conditions:

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- (a) the wagering funds of registered players must not be disbursed or otherwise dealt with except as authorised under this Act or as the Commission, by instrument in writing, from time to time authorises;
- (b) for the purposes of paragraph (a), an account used for the licensed provider's totalizator operations must –
 - (i) not be used for any other purposes; and
 - (ii) be maintained with an authorised deposit-taking institution that carries on business in Australia, at a branch or office of that institution that is physically located in Tasmania; and
 - (iii) be independently audited at least once every 12 months, and at such other times as the Commission may instruct;
- (c) the licensed provider must have in place rules for totalizator wagering and ensure that players can consult those rules electronically;

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- (d) the licensed provider must ensure that the Commission is able to inspect the wagering rules electronically at any time;
- (e) the Commission, in its discretion, may, by means of an instruction, disallow any wagering rules that it considers to be –
 - (i) oppressive or unfair; or
 - (ii) inadequate or incomplete; or
 - (iii) misleading, inaccurate or poorly drafted; or
 - (iv) unsatisfactory on other grounds;
- (f) the licensed provider must not allow wagering under disallowed wagering rules;
- (g) the licensed provider must not allow wagering in respect of a contingency for which there are no wagering rules;
- (h) any wagering that occurs under wagering rules before their disallowance is to be settled as the Commission, either generally or in the specific case and whether before or after the settlement of wagering, instructs;

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- (i) the Commission, in its discretion, may instruct the licensed provider not to allow wagering on a competition or event that the Commission considers is not a fit subject for totalizator wagering and the licensed provider must comply with that instruction;
- (j) any wagering that occurs in respect of wagering events before their prohibition under paragraph (i) is to be settled as the Commission, either generally or in the specific case and whether before or after the settlement of wagering, instructs;
- (k) the licensed provider must not allow wagering on contingencies relating to –
 - (i) competitions or events held in Tasmania that are unlawful; or
 - (ii) competitions or events held elsewhere that would, if they were to be held in Tasmania, be unlawful;
- (l) subject to any prescribed requirements or conditions, at the request of a racing club the licensed provider must conduct a

totalizator on behalf of the racing club at any meeting that –

- (i) is under the control of the racing club; and
- (ii) is a race meeting or betting-only meeting within the meaning of the *Racing Regulation Act 2004* –

but not beyond, in aggregate, a total of 40 meetings in each calendar year for all racing clubs.

76ZEG. Authorised rates of totalizator commission

- (1) A totalizator operator is entitled to such rates of commission in respect of totalizator wagering as it determines, but not exceeding such maximum rates of commission as the Commission from time to time authorises in writing.
- (2) Authorisations under subsection (1) may –
 - (a) be of general application; and
 - (b) be of specific application, with the result that different rates of commission may apply in such different circumstances as are specified in the authorisations; and

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- (c) confer relevant discretions on the licensed provider.

76ZEH. Totalizator dividends and their calculation

- (1) A totalizator operator must, after deducting commission from its total receipts for any totalizator wagering contingency –
 - (a) declare the balance of those receipts to be the amount available for the payment of dividends on that totalizator wagering contingency; and
 - (b) pay that amount out as dividends to the persons entitled to them.
- (2) In calculating such a dividend –
 - (a) a fraction of 10 cents less than 5 cents is to be disregarded; and
 - (b) a fraction of 10 cents equal to or greater than 5 cents is to be taken to be exactly 5 cents.
- (3) Any amount that would, but for subsection (2), be required to be included in a totalizator wagering dividend may be retained by the totalizator operator.

Subdivision 3 – Licensing of employees

76ZEI. Certain employees to be issued with special employee's licence

- (1) This section applies to a person who is employed by a totalizator operator during the lead-in period to exercise or perform a function (referred to in this section as “the function”) of a special employee for the totalizator operator's wagering or gaming operations.
- (2) The Commission, as soon as practicable after the commencement of the lead-in period or, if applicable, after the person is employed, is to issue the person with a special employee's licence under Division 3 of Part 4 authorising the person to exercise or perform the function.
- (3) The special employee's licence remains in force only until the end of the lead-in period in which it is issued but, for the avoidance of doubt, sections 56, 56A, 60, 64 and 65 apply to that licence.
- (4) Until the Commission issues the special employee's licence, the person is taken to be the holder of a provisional special employee's licence under Division 3 of Part 4 authorising the person to exercise or perform the function.

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- (5) Expressions that are defined in Division 3 of Part 4 and used in this section have the same meaning in this section as they have in that Division.

76ZEJ. Certain employees to be issued with technician's licence

- (1) This section applies to a person who is employed by a totalizator operator during the lead-in period to exercise or perform a function of a technician (referred to in this section as “the function”) for the totalizator operator's wagering or gaming operations.
- (2) The Commission, as soon as practicable after the start of the lead-in period or, if applicable, after the person is employed, is to issue the person with a technician's licence under Division 4 of Part 4 authorising the person to exercise or perform the function.
- (3) The technician's licence remains in force only until the end of the lead-in period in which it is issued but, for the avoidance of doubt, sections 56, 56A, 60, 64 and 65 apply, with any necessary modification, to that licence.
- (4) Until the Commission issues the technician's licence, the person is taken to be the holder of a provisional technician's licence under Division 4 of

Part 4 authorising the person to exercise or perform the function.

- (5) Expressions that are defined in Division 4 of Part 4 and used in this section have the same meaning in this section as they have in that Division.

Subdivision 4 – Totalizator gaming equipment and control systems

76ZEK. Gaming equipment, &c., of initial totalizator operator

- (1) Notwithstanding sections 76ZZG and 76ZZI, the initial totalizator endorsement authorises the licensed provider to use any existing gaming equipment or control system in connection with the activities authorised by the initial totalizator endorsement for –
- (a) in the case of gaming equipment, the period of 24 months commencing on the totalizator changeover day or such longer period as may be prescribed within those 24 months; and
 - (b) in the case of a control system, the period of 6 months commencing on the totalizator changeover day or such longer period as may be prescribed within those 6 months.

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(2) To avoid doubt, the authority conferred by subsection (1) –

(a) applies only to TOTE Tasmania or a TOTE subsidiary within the meaning of section 76ZED; and

(b) is extinguished by a terminating event.

(3) In this section –

“**existing**”, gaming equipment or control system, means gaming equipment or a control system used by TOTE Tasmania at any time in the 3-month period immediately before the totalizator changeover day.

76ZEL. Gaming equipment, &c., of second totalizator operator

(1) Notwithstanding sections 76ZZG and 76ZZI, the second totalizator endorsement authorises the licensed provider to use any existing gaming equipment or control system in connection with the activities authorised by the totalizator (or any other) endorsement on the licence for –

(a) in the case of gaming equipment, the period of 12 months commencing on the endorsement

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day or such longer period as may be prescribed within those 12 months; and

- (b) in the case of a control system, the period of 6 months commencing on endorsement day or such longer period as may be prescribed within those 6 months.

(2) In this section –

“endorsement day” means the day on which the second totalizator endorsement takes effect;

“existing”, gaming equipment or control system, means gaming equipment or a control system used by the holder of the initial totalizator endorsement or second totalizator endorsement at any time in the 3-month period immediately before the endorsement day.

22. Part 4A, Division 7, Subdivision 1: Heading inserted

Division 7 of Part 4A of the Principal Act is amended by inserting the following heading before section 76ZK:

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Subdivision 1 – General protection

23. Section 76ZK amended (Self-limit on wagers by player)

Section 76ZK of the Principal Act is amended by inserting after subsection (7) the following subsection:

- (8) This section does not apply to –
- (a) the holder of the Tasmanian gaming licence endorsed with the initial totalizator endorsement, within the meaning of Division 5A, in respect of the 12-month period immediately following the day on which that endorsement takes effect; or
 - (b) the holder of a Tasmanian gaming licence endorsed with the second totalizator endorsement, within the meaning of Division 5A, in respect of the 12-month period immediately following the day on which that endorsement takes effect.

24. Part 4A, Division 7, Subdivision 2 inserted

After section 76ZN of the Principal Act, the following Subdivision is inserted in Division 7:

Subdivision 2 – Exclusion

76ZNA. Interpretation

In this subdivision –

“excluded person”, in relation to a licensed provider, means a registered player who is excluded from engaging in wagering activities with or through the licensed provider because of –

- (a) a TGL self-exclusion notice; or
- (b) a TGL exclusion order;

“wagering” includes gaming.

76ZNB. Self-exclusion from wagering with licensed provider

- (1) A registered player may, by written notice to a licensed provider –
 - (a) bar himself or herself from wagering with or through the licensed provider; or
 - (b) revoke such a bar.
- (2) A notice under subsection (1)(a) is called a “TGL self-exclusion notice” and a notice under subsection (1)(b) is called a “TGL self-exclusion revocation notice”.

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- (3) A TGL self-exclusion notice or TGL self-exclusion revocation notice takes effect when it is received by the licensed provider.
- (4) As soon as practicable (and in any event no later than 3 days) after receiving a TGL self-exclusion notice, a licensed provider must –
 - (a) remove the name of the person who has given the notice from the register kept under section 76ZU; and
 - (b) ensure that all employees of the licensed provider that engage in customer contact in connection with the wagering activities of the licensed provider know of the notice; and
 - (c) give written notice or a copy of the notice to the Commission.

Penalty: Fine not exceeding 10 000 penalty units.

- (5) A licensed provider that receives a TGL self-exclusion notice must ensure that, as soon as practicable after the determination of any outstanding wagers of the excluded person and the deduction of authorised commission and statutory charges –

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- (a) the excluded person's wagering account, if any, is closed; and
- (b) any wagering funds standing to the credit of that account immediately before its closure are remitted to the excluded person.

Penalty: Fine not exceeding 10 000 penalty units.

- (6) As soon as practicable after receiving a TGL self-exclusion revocation notice, the licensed provider is to –
 - (a) restore the name of the person who has given the notice to the register kept under section 76ZU; and
 - (b) ensure that all employees of the licensed provider that engage in customer contact in connection with the wagering activities of the licensed provider know of the notice; and
 - (c) give written notice or a copy of the notice to the Commission.
- (7) Despite any other provision of this section, a TGL self-exclusion notice is not capable of being revoked within 6 months after it is given.
- (8) For the avoidance of doubt, a reference in this section to a written notice includes

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a reference to an email, fax or other form of electronic notice.

76ZNC. Third-party exclusion from wagering with licensed provider

- (1) A person who has a close personal interest in the welfare of another person who engages in wagering with or through a licensed provider may, in an approved form, apply to the Commission for an order to prohibit that other person from engaging in that wagering.
- (2) The Commission must, on receipt of the application, provide the affected person with a written notice –
 - (a) informing the affected person of the making of the application and the reasons for it; and
 - (b) inviting the affected person to make representations to the Commission about the application within the reasonable time specified in the notice.
- (3) After considering representations made by the applicant and the affected person, the Commission must –
 - (a) if it is satisfied that it is in the public interest and the interests of the affected person to do so,

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make an order (called a “TGL exclusion order”) prohibiting the affected person from wagering with the licensed provider; or

- (b) if it is not so satisfied, refuse the application.
- (4) The Commission must, if the application is refused, notify the applicant and the affected person in writing of that refusal and the reasons for it.
- (5) The Commission must, on making a TGL exclusion order, provide a copy of it to –
 - (a) the applicant; and
 - (b) the affected person; and
 - (c) the licensed provider.
- (6) As soon as practicable (and in any event no later than 3 days) after receiving a copy of a TGL exclusion order from the Commission, a licensed provider must –
 - (a) ensure that all employees of the licensed provider that engage in customer contact in connection with the licensed provider’s wagering activities know of the order; and
 - (b) remove the affected person’s name from the register kept under section 76ZU.

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Penalty: Fine not exceeding 10 000
penalty units.

- (7) A licensed provider that receives a copy of a TGL exclusion order from the Commission must ensure that, as soon as practicable after the determination of any outstanding wagers of the affected person and the deduction of authorised commission and statutory charges –
- (a) the affected person’s wagering account, if any, is closed; and
 - (b) any wagering funds standing to the credit of that account immediately before its closure are remitted to the affected person.

Penalty: Fine not exceeding 10 000
penalty units.

- (8) A TGL exclusion order has effect until it is revoked under section 76ZND.
- (9) In this section –
- “affected person”** means, according to the context, the person in respect of whom –
- (a) an application for a TGL exclusion order is made; or
 - (b) a TGL exclusion order is made and in force.

76ZND. Revocation of TGL exclusion orders

- (1) This section applies if a TGL exclusion order is in force.
- (2) The person who applied for the order or the affected person may, in an approved form, apply to the Commission to have it revoked.
- (3) The Commission must, on receipt of the application, provide the respondent with a written notice –
 - (a) informing the respondent of the making of the application and the reasons for it; and
 - (b) inviting the respondent to make representations to the Commission about the application within the reasonable time specified in the notice.
- (4) After considering representations made by the applicant and the respondent, the Commission must –
 - (a) if it is satisfied that it is in the public interest and the interests of the affected person to do so, make an order (called a “revocation order”) revoking the TGL exclusion order; or
 - (b) if it is not so satisfied, refuse the application.

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- (5) The Commission must, if the application is refused, notify the applicant and respondent in writing of that refusal and the reasons for it.
- (6) The Commission must, on making a revocation order, provide a copy of it to –
 - (a) the applicant; and
 - (b) the respondent; and
 - (c) the licensed provider.
- (7) In this section –

“affected person” means the person in respect of whom a TGL exclusion order is in force;

“respondent”, in relation to an application for revocation under subsection (2), means whichever of the following persons was not the applicant:

- (a) the affected person;
- (b) the person who applied for the relevant TGL exclusion order.

76ZNE. Licensed provider to keep register of excluded persons

A licensed provider must –

- (a) keep an up-to-date register of excluded persons; and
- (b) ensure that the Commission is able to inspect that register electronically at any time.

Penalty: Fine not exceeding 10 000 penalty units.

76ZNF. Restrictions on wagering with excluded persons

A licensed provider must not –

- (a) accept a wager from an excluded person; or
- (b) cause or allow an employee of the licensed provider to accept a wager from an excluded person; or
- (c) solicit, by direct advertising, direct inducements or other direct means, excluded persons to engage in wagering with the licensed provider.

Penalty: In the case of –

- (a) a first offence, a fine not exceeding 10 000 penalty units; and

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- (b) a subsequent offence, a fine not exceeding 50 000 penalty units.

76ZNG. Transitional exemption for certain licensed providers

This subdivision does not apply to –

- (a) the holder of a Tasmanian gaming licence endorsed with the initial totalizator endorsement, within the meaning of Division 5A, in respect of the 6-month period immediately following the day on which that endorsement takes effect; or
- (b) the holder of a Tasmanian gaming licence endorsed with the second totalizator endorsement, within the meaning of Division 5A, in respect of the 6-month period immediately following the day on which that endorsement takes effect.

25. Section 76ZP amended (Remitting funds of inactive player)

Section 76ZP of the Principal Act is amended by omitting “wager” and substituting “activity”.

26. Section 76ZR amended (Claims for prize)

Section 76ZR of the Principal Act is amended by inserting after subsection (5) the following subsection:

(6) In this section –

“prize” includes winnings.

27. Section 76ZRA inserted

After section 76ZR of the Principal Act, the following section is inserted in Division 9:

76ZRA. Unclaimed winnings, &c.

- (1) This section applies if any winnings in respect of a gaming activity are not claimed from the relevant licensed provider within 6 months after the day on which they become payable or claimable.
- (2) The winnings are taken to be unclaimed winnings of the licensed provider.
- (3) The licensed provider must, on or before the seventh day of each month –
 - (a) pay to the Treasurer an amount equal to the total amount of the unclaimed winnings of the licensed provider for the previous month; or

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(b) if there were no unclaimed winnings in the previous month, give the Treasurer a declaration in an approved form to that effect.

(4) In this section –

“approved form” means a form approved by the Treasurer.

28. Sections 76ZZ, 76ZZAAA and 76ZZAAB inserted

After section 76ZY of the Principal Act, the following sections are inserted in Division 10:

76ZZ. Totalizator Agencies (approved outlets)

- (1) Subject to section 76ZZAAB, a totalizator operator may establish an agency in premises occupied by another person (referred to in this section as “the agent”) at and through which players may engage in gaming and wagering with or through the totalizator operator under its Tasmanian gaming licence.
- (2) In respect of gaming and wagering conducted at and through the approved outlet –
 - (a) the actions of the agent are taken to be actions of the totalizator operator; and

- (b) if any of those actions would constitute a prescribed offence if committed by the totalizator operator, proceedings for the prescribed offence may be brought against the agent in the same manner as if the agent were the totalizator operator (whether or not proceedings are brought against the totalizator operator).
- (3) Without limiting subsection (2)(a), if the agent commits an offence under this Act in respect of gaming or wagering conducted at or through an agency –
 - (a) the totalizator operator is also taken to have committed the offence; and
 - (b) proceedings for the offence may be brought against the totalizator operator (whether or not proceedings are brought against the agent).
- (4) However, in proceedings brought against the totalizator operator pursuant to subsection (3), it is a defence if the totalizator operator establishes that it –
 - (a) issued written instructions and took reasonable precautions to ensure compliance with this Act; and

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- (b) did not know the offence had been committed; and
 - (c) could not reasonably have prevented the commission of the offence.
- (5) Any agreement that is repugnant to or purports to oust or qualify the operation of this section is, to that extent, void and unenforceable.
- (6) In this section –
 - “**prescribed offence**” means an offence under –
 - (a) section 76ZM; or
 - (b) section 92; or
 - (c) Division 3 of Part 5; or
 - (d) section 118.

76ZZAAA. Totalizator operator approved outlets

A totalizator operator may establish any premises occupied by the totalizator operator as an outlet at and through which players may engage in gaming and wagering with or through the totalizator operator under its Tasmanian gaming licence.

76ZZAAB. Commission oversight of approved outlets

- (1) A totalizator operator must give the Commission –
 - (a) at least 10 days' notice, in an approved form, of intention to establish or close an approved outlet under section 76ZZ or 76ZZAAA; and
 - (b) notice, in an approved form, within 3 clear days, if there is a change in the occupation of any premises used as an approved outlet by the totalizator operator under section 76ZZ.
- (2) The Commission, by notice in writing, may direct a totalizator operator –
 - (a) not to establish a particular approved outlet; or
 - (b) to take or ensure the taking of specified remedial actions in respect of a particular approved outlet or persons at an approved outlet; or
 - (c) to close a particular approved outlet, either temporarily or permanently.
- (3) Without limiting its discretion, the Commission may issue a direction under

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this section if it considers on reasonable grounds that –

- (a) the premises in question are, by reason of their location, condition or otherwise, not suitable for use as an approved outlet; or
 - (b) in the case of section 76ZZ, the occupier of the premises is or may not be a suitable person to be an agent; or
 - (c) prescribed circumstances apply.
- (4) A direction under this section may specify time limits in respect of an action to be taken or a period of closure.
- (5) Without prejudice to Division 6 of Part 5, a failure to comply with a direction under this section constitutes grounds for disciplinary action under that Division in relation to the relevant prescribed licence.
- (6) In this section –

“approved form” means a form approved by the Commission.

29. Section 76ZZAA amended (Trading accounts)

Section 76ZZAA of the Principal Act is amended as follows:

- (a) by omitting subparagraphs (ii) and (iii) from paragraph (a) of the definition of “trading account” in subsection (1) and substituting the following subparagraphs:
 - (ii) a race wagering endorsement;
 - (iii) a sports betting endorsement;
 - (iv) a totalizator endorsement; and
- (b) by omitting from subsection (6) “fixed odds wagering endorsement or sports betting endorsement” and substituting “race wagering endorsement, sports betting endorsement or totalizator endorsement”.

30. Section 76ZZAB inserted

After section 76ZZAA of the Principal Act, the following section is inserted in Division 10:

76ZZAB. Betting discounts

- (1) A licensed provider is entitled to give registered players such betting discounts as the licensed provider from time to time determines.
- (2) In this section –
 - “**betting**” includes wagering and gaming;

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“discount” includes concession and rebate.

31. Section 76ZZC substituted

Section 76ZZC of the Principal Act is repealed and the following section is substituted:

76ZZC. Prohibition on special employee wagering

- (1) A special employee of a licensed provider must not, while on duty as such special employee, wager in a gaming activity provided by the employee's employer under the authority of a Tasmanian gaming licence otherwise than by accepting wagers in the course of his or her duties as an employee of the provider.

Penalty: Fine not exceeding 240 penalty units.

- (2) To avoid doubt, a special employee who is taking an authorised meal break or rest period is taken to be still on duty for the purposes of this section.

32. Section 76ZZG amended (Approval of gaming equipment)

Section 76ZZG of the Principal Act is amended by inserting after subsection (8) the following subsections:

- (9) The Commission may set general gaming equipment standards for –
 - (a) licensed providers generally; or
 - (b) any class of licensed providers.
- (10) Any general gaming equipment standards so set may provide for any matter by adopting or incorporating, either specifically or by reference, and either wholly or in part and with or without modification, any code, standard, guideline or specification relevant to gaming equipment or its operation –
 - (a) whether as in force at a particular time or as from time to time amended; and
 - (b) whether published before, on or after the day on which subsection (9) commences.
- (11) The following provisions apply to the setting of general gaming equipment standards:
 - (a) the Commission is to give notice of the setting of the standards in the *Gazette*;
 - (b) the Commission is to publish the standards electronically and in such other ways as it thinks necessary;

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- (c) the notice is to specify when the standards take effect and how they have been published;
 - (d) the Commission is to ensure that any licensed provider who wishes to do so can obtain a free printed copy of the standards.
- (12) A notice under subsection (11) is not a statutory rule for the purposes of the *Rules Publication Act 1953*.
- (13) A licensed provider must ensure that the licensed provider's gaming equipment complies with –
 - (a) the general gaming equipment standards, if any, set under subsection (9)(a); and
 - (b) if any general gaming equipment standards set under subsection (9)(b) apply to the licensed provider, those general gaming equipment standards.

Penalty: Fine not exceeding 1 000 penalty units.

- (14) The Commission may revoke or from time to time amend any general gaming equipment standards, in which case subsection (11) applies, with any necessary modification, to the revocation or amendment.

33. Section 76ZZI amended (Approval of control system)

Section 76ZZI of the Principal Act is amended by inserting after subsection (2) the following subsections:

- (3) The Commission may set general control system standards for –
 - (a) licensed providers generally; or
 - (b) any class of licensed providers.
- (4) Any general control system standards so set may provide for any matter by adopting or incorporating, either specifically or by reference, and either wholly or in part and with or without modification, any code, standard, guideline or specification relevant to a control system or its operation –
 - (a) whether as in force at a particular time or as from time to time amended; and
 - (b) whether published before, on or after the day on which subsection (3) commences.
- (5) The following provisions apply to the setting of general control system standards:

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- (a) the Commission is to give notice of the setting of the standards in the *Gazette*;
 - (b) the Commission is to publish the standards electronically and in such other ways as it thinks necessary;
 - (c) the notice is to specify when the standards take effect and how they have been published;
 - (d) the Commission is to ensure that any licensed provider who wishes to do so can obtain a free printed copy of the standards.
- (6) A notice under subsection (5) is not a statutory rule for the purposes of the *Rules Publication Act 1953*.
- (7) A licensed provider must ensure that the licensed provider's control system complies with –
 - (a) the general control system standards, if any, set under subsection (3)(a); and
 - (b) if any general control system standards set under subsection (3)(b) apply to the licensed provider, those general control system standards.

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Penalty: Fine not exceeding 1 000 penalty units.

- (8) The Commission may revoke or from time to time amend any general control system standards, in which case subsection (5) applies, with any necessary modification, to the revocation or amendment.

34. Section 77J amended (Authority of foreign games permit)

Section 77J of the Principal Act is amended as follows:

- (a) by omitting “Subject” and substituting “(1) Subject”;
- (b) by inserting the following subsection:
 - (2) A foreign games permit does not allow the holder of the permit to conduct the activities authorised by a Tasmanian gaming licence.

35. Section 77V amended (Approval of certain contracts by Commission)

Section 77V of the Principal Act is amended as follows:

- (a) by omitting “Roll;” from paragraph (b) of the definition of “relevant contract” in

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- subsection (1) and substituting “Roll;
and”;
- (b) by inserting the following paragraph after
paragraph (b) in the definition of
“relevant contract” in subsection (1):
 - (c) a contract between a totalizator
operator and another person
under section 76ZZ;
- (c) by inserting the following subsection
after subsection (4):
 - (5) Subsection (2) in its application
to relevant contracts of the kind
referred to in paragraph (c) of the
definition of “relevant contract”
in subsection (1), applies only to
contracts entered into after the
commencement of the *Gaming
Control Amendment Act 2009*.

36. Section 91 amended (The Commission’s rules)

Section 91 of the Principal Act is amended as
follows:

- (a) by omitting from subsection (1) “in
licensed premises in respect of which a
licensed premises gaming licence is in
force” and substituting “or gaming
activities”;

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- (b) by omitting from subsection (1)(a) “restricted gaming areas” and substituting “gaming or wagering areas”;
- (c) by omitting from subsection (1)(b) “restricted gaming” and substituting “gaming or wagering”;
- (d) by omitting from subsection (1)(c) “restricted gaming areas” and substituting “gaming or wagering areas”;
- (e) by omitting from subsection (1)(d) “licensed premises” and substituting “premises used for gaming or wagering”;
- (f) by omitting from subsection (1)(e) “licensed premises gaming operators” and substituting “prescribed licence holders”;
- (g) by omitting from subsection (1)(g) “gaming on licensed premises” and substituting “premises used for gaming or wagering”;
- (h) by inserting in subsection (1)(h) “or gaming activities” after “gaming”;
- (i) by omitting from subsection (2) “licensed premises” and substituting “licences”;
- (j) by omitting from subsection (4) “licensed premises gaming operator” and substituting “prescribed licence holder”.

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37. Section 92 amended (Rules to be displayed and enforced)

Section 92 of the Principal Act is amended as follows:

(a) by omitting subsection (1) and substituting the following subsection:

(1) A prescribed licence holder must ensure that a copy of any rules made by the Commission under section 91, as from time to time in force, is available for free public inspection at –

(a) each licensed premises;
and

(b) each approved location;
and

(c) if the prescribed licence holder is a totalizator operator, each approved outlet.

Penalty: Fine not exceeding 25 penalty units.

(b) by omitting from subsection (2) “licensed premises gaming operator” and substituting “prescribed licence holder”.

38. Section 99 substituted

Section 99 of the Principal Act is repealed and the following section is substituted:

99. Removal of certain persons

- (1) A prescribed licence holder may remove from, or refuse entry to, any facility any person who –
 - (a) breaches rules made by the Commission under section 91; or
 - (b) damages or physically abuses a gaming machine or equipment at that facility; or
 - (c) behaves in a manner likely to cause offence to other persons; or
 - (d) is suspected on reasonable grounds of being in the facility for the purpose of committing an offence or aiding another person to commit an offence against this Act.
- (2) A prescribed licence holder may use no more force than is reasonably necessary to remove a person under subsection (1).
- (3) In this section –

“**facility**” includes approved venue, approved location and approved outlet;

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“prescribed licence holder” includes
any agent of the prescribed
licence holder.

39. Section 100 amended (Detention of suspected persons)

Section 100 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “an approved venue or on the premises of which the approved venue forms part” and substituting “a facility”;
- (b) by omitting from subsection (1) “approved venue” third occurring and substituting “facility”;
- (c) by omitting subsection (2) and substituting the following subsection:
 - (2) A prescribed licence holder who suspects on reasonable grounds that a person in any facility of the prescribed licence holder is contravening or attempting to contravene section 252A or 264 of the *Criminal Code* or a prescribed provision of this Act or has contravened any such section or provision may detain the suspected person in a suitable place in or near the facility until

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the arrival at the place of
detention of a police officer.

(d) by inserting the following subsection
after subsection (3):

(4) In this section –

“facility” includes –

- (a) approved venue,
approved location
and approved
outlet; and
- (b) premises of which
an approved
venue, approved
location or
approved outlet
forms a part;

“prescribed licence holder”
includes any agent of the
prescribed licence holder.

40. Section 113 amended (Interpretation)

Section 113 of the Principal Act is amended by
inserting after the definition of “acceptable proof
of age” the following definition:

“approved venue” includes approved
location and approved outlet;

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41. Section 125 amended (Functions of Commission)

Section 125 of the Principal Act is amended as follows:

- (a) by inserting in paragraph (a) “and wagering” after “gaming”;
- (b) by omitting paragraph (b) and substituting the following paragraph:
 - (b) to investigate, and make policy recommendations to the Minister on, matters relating to gaming and other forms of wagering;
- (c) by inserting in paragraph (c) “and other forms of wagering” after “control of gaming”;
- (d) by inserting in paragraph (c) “and other wagering” after “management of gaming”;
- (e) by inserting in paragraph (d) “or other forms of wagering” after “gaming”;
- (f) by inserting in paragraph (e) “or other forms of wagering” after “gaming”.

42. Section 127A inserted

Before section 128 of the Principal Act, the following section is inserted in Part 8:

127A. Interpretation of Part

In this Part –

“approved venue” includes approved location and approved outlet.

43. Section 130 amended (Entry onto premises)

The definition of “prescribed premises” in section 130(1) of the Principal Act is amended as follows:

- (a) by omitting paragraph (d) and substituting the following paragraph:
 - (d) the approved location or an approved outlet;
- (b) by inserting in paragraph (i)(ii) “or gaming activity” after “game”.

44. Section 132 amended (Investigation of complaints)

Section 132 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1)(b) “, other than a game conducted by a licensed provider”;
- (b) by inserting the following subparagraph after subparagraph (ii) in subsection (2)(a):

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- (iia) the licensed provider or licensed provider's agent, or both;

45. Section 133 amended (Powers of inspectors)

Section 133 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1)(d)(iv) “or agent of the licensed provider, or both” after “provider”;
- (b) by omitting from subsection (1)(d)(viii) “gaming or a game or sells in Tasmania a ticket in a foreign game” and substituting “gaming or wagering”;
- (c) by omitting “a game” from paragraph (b) of the definition of “records” in subsection (7) and substituting “wagering”.

46. Section 135 amended (Offences relating to inspectors)

Section 135(4) of the Principal Act is amended by omitting “a game is conducted, tickets in a foreign game are sold or records are kept” from paragraph (c) of the definition of “prescribed premises” and substituting “wagering is conducted”.

47. Section 141 amended (Records to be kept on the premises)

Section 141 of the Principal Act is amended as follows:

- (a) by omitting subsection (1A) and substituting the following subsection:

- (1A) A licensed provider may, with the written approval of the Commission, keep all or any of the records relating to the conduct of gaming activities by the licensed provider at a place other than the licensed provider's approved location.

- (b) by omitting from subsection (1C) "betting exchange operator" and substituting "licensed provider";

- (c) by omitting from subsection (1C) "brokered wagering by the operator at a place other than the approved location of the operator" and substituting "gaming activities by the licensed provider at a place other than the licensed provider's approved location";

- (d) by omitting from subsection (1C)(a) "approved location of the operator" and substituting "licensed provider's approved location".

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48. Section 145 amended (Other returns by gaming operators)

Section 145(1)(a) of the Principal Act is amended by omitting “section 77” and substituting “section 77V”.

49. Section 148A amended (Annual Tasmanian gaming licence fee)

Section 148A of the Principal Act is amended as follows:

- (a) by omitting from subsection (2)(b) “fixed odds wagering endorsement” and substituting “race wagering endorsement”;
- (b) by inserting the following paragraphs after paragraph (da) in subsection (2):
 - (db) if the Tasmanian gaming licence is endorsed with a totalizator endorsement – 350 000 fee units; or
 - (dc) if the Tasmanian gaming licence is endorsed with an agent endorsement – 5 000 fee units; or
- (c) by omitting paragraph (f) from subsection (2) and substituting the following paragraphs:
 - (f) if the Tasmanian gaming licence is endorsed with both a sports

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betting endorsement and a race
wagering endorsement – 200 000
fee units; or

- (g) if, in any case other than that
provided for by paragraph (f), the
Tasmanian gaming licence is
endorsed with more than one of
the endorsements referred to in
paragraphs (a), (b), (c), (d), (da),
(db), (dc) and (e) –

- (i) the total of the amounts
specified in respect of
each endorsement
endorsed on the
Tasmanian gaming
licence; or

- (ii) 450 000 fee units –

whichever is lesser.

- (d) by inserting the following subsections
after subsection (4):

- (5) Notwithstanding subsections (1),
(2), (3) and (4), the holder of a
Tasmanian gaming licence
endorsed with the initial
totalizator endorsement or second
totalizator endorsement is not
(while that totalizator
endorsement is in effect) required
to make any payments to the
Treasurer under this section in
respect of that totalizator

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endorsement or any of the following endorsements on the licence:

- (a) agent endorsement;
- (b) race wagering
endorsement;
- (c) sports betting
endorsement.

(6) In this section –

“**initial totalizator
endorsement**” has the same meaning as in Division 5A of Part 4A;

“**second totalizator
endorsement**” has the same meaning as in Division 5A of Part 4A.

50. Section 149 amended (Unclaimed winnings)

Section 149 of the Principal Act is amended by omitting subsections (3) and (4).

51. Section 150A amended (Taxation in respect of Tasmanian gaming licence)

Section 150A of the Principal Act is amended as follows:

- (a) by inserting in subsection (3) “, where this section so provides,” after “must”;
- (b) by omitting subsections (4) and (5).

52. Section 150AC amended (Betting exchange product levy)

Section 150AC of the Principal Act is amended by inserting after subsection (4) the following subsection:

- (4A) For the purpose of this section, the amount of betting exchange commission for any month is to be calculated as prescribed by the regulations.

53. Section 150AD inserted

After section 150AC of the Principal Act, the following section is inserted in Division 2:

150AD. Totalizator wagering levy

- (1) The holder of a Tasmanian gaming licence endorsed with a totalizator endorsement must pay to the Treasurer a wagering levy in the following manner:
 - (a) if the totalizator endorsement takes effect on a day other than 1 July in any financial year, that proportion of the whole wagering levy specified in subsection (2)

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that relates to the proportion of the financial year during which the totalizator endorsement has effect is to be paid within 3 days after the totalizator endorsement takes effect;

- (b) the whole wagering levy specified in subsection (2) in respect of a complete financial year during which the totalizator endorsement is to have effect under the term of the totalizator endorsement is to be paid on the first day of that financial year;
 - (c) if the term of the totalizator endorsement will end on a day other than 30 June in any financial year, that proportion of the whole wagering levy specified in subsection (2) that relates to the proportion of that financial year during which the totalizator endorsement has effect is to be paid on the first day of that financial year.
- (2) Subject to subsection (1), the amount of the wagering levy payable each financial year the totalizator endorsement is in force is 4.7 million fee units.
 - (3) If a totalizator endorsement is surrendered, the Treasurer may give the licensed provider a proportional refund

of the wagering levy determined by the Treasurer.

54. Section 152 repealed

Section 152 of the Principal Act is repealed.

55. Section 153A amended (Gaming and wagering guarantee)

Section 153A of the Principal Act is amended as follows:

(a) by omitting paragraph (b) from the definition of “guaranteeable endorsement” in subsection (1) and substituting the following paragraph:

(b) a race wagering endorsement; or

(b) by inserting the following subsection after subsection (9):

(10) This section does not apply to the holder of the initial totalizator endorsement, within the meaning of Division 5A of Part 4A, if and for as long as it is –

(a) a State-owned company within the meaning of the *Government Business Enterprises Act 1995*; or

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- (b) a wholly-owned subsidiary, within the meaning of the Corporations Act, of such a State-owned company.

56. Section 174 amended (Regulations)

Section 174 of the Principal Act is amended as follows:

- (a) by omitting subsection (2A);
- (b) by inserting the following subsection after subsection (6):
 - (7) If necessary to effect or further a savings or transitional purpose, a provision referred to in subsection (5) –
 - (a) need not be consistent with this Act or, if applicable, the amending Act; and
 - (b) may confer exemptions on persons from the requirements of this Act or the amending Act.

57. Schedule 5 amended (Further transitional and savings provisions)

Schedule 5 to the Principal Act is amended by inserting after clause 9 in Part 2 the following Part:

PART 3 – TRANSITIONAL PROVISION CONSEQUENT ON *GAMING CONTROL AMENDMENT ACT 2009*

10. Betting exchange operator taken to have agent endorsement for existing arrangements

(1) On the transition day, a Tasmanian gaming licence with a betting exchange endorsement is, without further authority than this subclause, taken to have been endorsed with an agent endorsement authorising the licensed provider to –

(a) maintain and continue to participate in, under and subject to this Act, any existing arrangements of the licensed provider; and

(b) continue to do all things necessary or convenient to execute any such arrangements, including the use of approved outlets.

(2) In this clause –

“existing arrangements” means arrangements of the kind referred

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to in section 76VC(1) in place
immediately before the transition
day;

“transition day” means the day on
which the *Gaming Control*
Amendment Act 2009
commences.

58. Legislation repealed

The legislation specified in Schedule 1 is
repealed and all Statutory Rules made under that
legislation are rescinded or revoked.

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SCHEDULE 1 – LEGISLATION REPEALED

Section 58

Racing (Totalizator Betting) Act 1952 (No. 98 of 1952)

TOTE Tasmania (Racing Regulation) Act 2004 (No. 63 of
2004)