

GAMING CONTROL AMENDMENT BILL (NO. 2) 2010

NOTES ON CLAUSES

- Clause 1 Short title.
- Clause 2 Fixes the date of commencement of the Act on a day or days to be proclaimed.
- Clause 3 Refers to the *Gaming Control Act 1993* as the Principal Act.
- Clause 4 This clause amends section 3(1) of the Principal Act by:
- omitting the definition of “approved rules”, which refers to rules approved by the Tasmanian Gaming Commission under section 76ZZF of the Act. This definition is omitted as the general conditions that will apply to a Tasmanian gaming licence in section 76XA of the Act provide for matters relating to the requirement for a licensed provider to have rules in respect of a gaming activity;
 - inserting the definitions of “betting exchange commission”, “broker wagering”, “brokered wagering event”, “instruct” and “regulatory Agency”, which currently only relate to the provisions in Division 5 (Betting exchange operations) of Part 4A of the Act. These definitions are required to be included in section 3(1) of the Act as the conditions relating to a Tasmanian gaming licence with a betting exchange endorsement are to be inserted in Division 4 (Tasmanian gaming licence) of Part 4A of the Act; and
 - inserting the definition of “lay bet” to mean the acceptance of a wager for a contingency not to occur in relation to an animal, a person or a team.
- Clause 5 This clause inserts sections 76XA, 76XB and 76XC in Division 4 (Tasmanian gaming licence) of Part 4A of the Principal Act.
- Section 76XA prescribes all of the general conditions that will apply to any Tasmanian gaming licence with a gaming endorsement. These provisions previously only related to a Tasmanian gaming licence holder with a betting exchange endorsement or totalizator endorsement under sections 76ZDC and 76ZF of the Principal Act. Section 76XA requires that the holder of a Tasmanian gaming licence with a gaming endorsement have rules in place in respect of a gaming activity and allows the Commission to disallow rules in certain circumstances.

The licensed provider must ensure that the Commission can inspect the rules electronically at any time.

The licensed provider must not allow gaming activity under disallowed rules or in respect of a contingency for which there are no rules. The licensed provider must also not allow gaming activity on contingencies relating to competitions, games or events that are unlawful in Tasmania or that would be unlawful if they were to be held in Tasmania.

This clause requires that the licensed provider must provide information to regulatory Agencies as the Commission from time to time instructs for the purposes of ensuring the integrity of a gaming activity or other purpose as determined by the Commission.

In addition, section 76XA requires that the wagering funds of registered players, that is those players entitled to wager in a gaming activity by means of a telecommunications device, to be held in trust and deposited with a Tasmanian branch of an authorised deposit taking institution.

This clause also states that a licensed provider must not allow a registered player to “lay bet” otherwise than in accordance with a betting exchange endorsement. This restriction provides that only a betting exchange can allow its registered players to accept a lay bet. This provision will not prevent a corporate bookmaker from lay betting.

Section 76XB prescribes the special conditions that apply to a Tasmanian gaming licence with a betting exchange endorsement. These special conditions are in addition to the general conditions prescribed under section 76XA and any other conditions applicable to the licensed provider. These special conditions are existing conditions that have been moved from section 76ZDC of the Principal Act.

These conditions require that the licensed provider must:

- only broker wagering in respect of registered players;
- hold wagering funds of registered players in trust, or by an agent of the licensed provider approved by the Commission; and
- comply with any conditions imposed by the Commission when taking betting exchange commission.

Section 76XC states that a Tasmanian gaming licence with a totalizator endorsement, in addition to the general conditions prescribed under section 76XA and any prescribed requirements or other conditions applicable to the licensed provider, is subject to the condition that, at the request of a racing club, the licensed provider must conduct programmed race meetings on behalf of the racing club. However, the licensed provider is not required to conduct more than 40 meetings in each calendar year for all racing clubs. These special conditions are existing conditions moved from section 76ZEF of the Principal Act.

- Clause 6 This clause amends section 76ZDB of the Principal Act to omit the definitions that are now prescribed in section 3(1) of the Act.

- Clause 7 This clause repeals section 76ZDC of the Principal Act as the special conditions relating to a Tasmanian gaming licence with a betting exchange endorsement are prescribed in the new sections of 76XA and 76XB.

- Clause 8 This clause omits the definition of “wagering rules” from section 76ZEB of the Principal Act as there is no longer any reference to wagering rules in the Act.

- Clause 9 This clause repeals section 76ZEF of the Principal Act as the special conditions relating to a Tasmanian gaming licence with a totalizator endorsement are prescribed in the new sections of 76XA and 76XC.

- Clause 10 This clause removes the reference to “approved rules” in section 76ZX of the Principal Act as rules are no longer required to be approved as the Commission has the power of disallowance.

- Clause 11 This clause inserts a new section 76ZZF in the Principal Act to reflect that matters relating to the approval of rules are now dealt with in sections 76XA, 76XB and 76XC.

- Clause 12 This clause amends section 148A(2)(da) of the Principal Act to decrease the annual fee payable for a Tasmanian gaming licence with a betting exchange endorsement from 350 000 fee units (\$476 000) to 300 000 fee units (\$408 000).

This clause inserts a new subsection (6) in section 148A(2) of the Act to require payment of the annual licence fee in section 148A(2)(da) in respect of a Tasmanian gaming licence with a betting exchange endorsement that is granted or renewed for a five-year period in three instalments.

Subsection (6)(a) requires that the fee for the first three years of the five-year licence period (900 000 fee units) is payable on the grant or renewal of the licence. This fee is non-refundable. Subsections (6)(b) and (c) require two further non-refundable instalments of 300 000 fee units to be paid on the third and fourth anniversary of the grant or renewal of the licence.

These payment arrangements have effect for five years from the date the amendments to section 148A(2) commence.

Subsection (7) states that where a Tasmanian gaming licence with a betting exchange endorsement, which is granted or renewed within five years after the subsection takes effect, is surrendered prior to the expiration of the licence, an instalment of the licence fee in (6) that was not due and payable at the time of the surrender ceases to be payable. Therefore, if a licence holder surrenders its licence in year two, the licence holder is not liable for the two remaining instalments of 300 000 fee units.

The clause ensures that sections 148A(1) and 148A(2)(g) of the Principal Act continue to apply. Section 148A(2)(g) caps the total annual fees payable where a Tasmanian gaming licence is endorsed with more than the endorsement referred to in subclauses (a) to (e) of section 148A(2) of the Principal Act.

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| Clause 13 | This clause inserts a new section 150A(7A) in the Principal Act to provide a uniform tax rate of five per cent of the monthly betting exchange commission in respect of all brokered wagering events. This represents a reduction in the tax payable in respect of a betting exchange from 10 per cent and 15 per cent in respect of brokered wagering events internationally and in Australia respectively. |
| Clause 14 | This clause repeals section 150AC of the Principal Act to abolish the 20 per cent product levy on betting exchange commission. |
| Clause 15 | This clause omits the transitional and savings provisions contained in Part 1 of Schedule 5 of the Principal Act that facilitated the granting of a foreign games permit to Tattersall's in 2002 on the commencement of new regulatory arrangements in Tasmania in relation to providers of lotteries and other games of a similar nature that are licensed in another Australian jurisdiction. The arrangements in the Schedule expired on 30 June 2010 and Tattersall's has since been granted a permit under the Principal Act. |
| Clause 16 | Refers to the <i>Gaming Control Regulations 2004</i> as the Principal Regulations. |
| Clause 17 | This clause rescinds regulation 5 of the Principal Regulations that references provisions of the Principal Act that have previously been repealed. This clause also rescinds Regulation 5A of the Principal Regulations that relates to the calculation of betting exchange commission, for the purpose of section 150AC(4A) of the Principal Act, in order to determine the product levy on betting exchange commission. This regulation is no longer required as the Bill repeals section 150AC of the Principal Act. |
| Clause 18 | Clause 18 rescinds outdated and redundant legislation specified in Schedule 1. |

Clause 19 This clause provides that this Act will be repealed on the ninetieth day from the day on which all of the provisions of the Act commence.

Schedule 1 Schedule 1 lists the legislation that is rescinded.