



**RACING AND GAMING AMENDMENT (TELEPHONE
SPORTS BETTING) ACT 1994**

No. 32 of 1994

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**RACING AND GAMING AMENDMENT (TELEPHONE
SPORTS BETTING) ACT 1994**

No. 32 of 1994

AN ACT to amend the *Racing and Gaming Act 1952*

[Royal Assent 10 May 1994]

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:—

Short title

1—This Act may be cited as the *Racing and Gaming Amendment (Telephone Sports Betting) Act 1994*.

Commencement

2—This Act commences on the day on which it receives the Royal Assent.

Principal Act

3—In this Act, the *Racing and Gaming Act 1952** is referred to as the Principal Act.

Section 3 amended (Interpretation)

4—Section 3 of the Principal Act is amended by inserting the following definition after the definition of “sweepstake”:

“**telephone sports betting licence**” means a licence issued under section 74B;

Part V: Division 1 heading inserted

5—The Principal Act is amended by inserting the following Division heading after the heading to Part V:—

Division 1—Registration

Section 59 amended (Registration of bookmakers and bookmakers’ clerks)

6—Section 59 (4A) of the Principal Act is amended by inserting “under Division 2” after “as a bookmaker”.

* No. 98 of 1952. For this Act, as amended to 1975, see Appendix D to the Annual Volume of Statutes of 1974. Subsequently amended by No. 71 of 1975, No. 85 of 1976, No. 104 of 1977, No. 54 of 1978, Nos. 19 and 73 of 1979, No. 90 of 1980, Nos. 9, 10 and 99 of 1982, Nos. 40 and 83 of 1983, Nos. 29 and 36 of 1984, Nos. 51, 89 and 123 of 1985, Nos. 13 and 31 of 1986, Nos. 39, 42 and 86 of 1987, Nos. 1 and 48 of 1988, No. 32 of 1989, Nos. 5, 22 and 40 of 1990, Nos. 39 and 40 of 1991, No. 37 of 1992 and Nos. 53, 54, 55, 93, 94 and 99 of 1993.

Part V: Division 2 heading and section 62A inserted

7—The Principal Act is amended by inserting the following Division heading and section after section 62:—

Division 2—Business and betting controls**Application of Division**

62A—This Division does not apply to—

- (a) a bookmaker who holds a telephone sports betting licence while he or she is acting in that capacity;
or
- (b) betting or business conducted by a bookmaker under a telephone sports betting licence.

Section 69 amended (Duties of bookmakers)

8—Section 69 (1) (a) of the Principal Act is amended by omitting “bearing an inscribed stamp of the prescribed value”.

Section 70 amended (Payment of commission by bookmakers)

9—Section 70 (1) of the Principal Act is amended by omitting paragraph (c) and substituting the following paragraph:—

- (c) an amount equal to 1·5 per cent of all money so paid or payable in respect of all other bets made by the bookmaker, other than bets made under a telephone sports betting licence.

Part V: Division 3 inserted

10—After section 74 of the Principal Act, the following Division is inserted:—

Division 3—Telephone sports betting**Interpretation of Division**

74A—In this Division, unless the contrary intention appears—

“**applicant**” means a bookmaker who submits an expression of interest to the Authority pursuant to section 74C;

“**approved venue**” means—

(a) in the case of a licence issued to a bookmaker for the purpose of conducting telephone sports betting and business in the northern area—the Mowbray racecourse or such other racecourse under the control of the Authority as may be prescribed; and

(b) in the case of a licence issued to a bookmaker for the purpose of conducting telephone sports betting and business in the southern area—the Royal Hobart Showground racecourse or such other racecourse under the control of the Authority as may be prescribed;

“**area**” means the northern area or the southern area;

“**licence**” means a telephone sports betting licence issued under section 74B;

“**licensee**” means the holder of a licence;

“**northern area**” means that part of the State comprising the cities of Burnie, Devonport and Launceston and the municipal areas of Break O’Day, Central Coast, Circular Head, Dorset, Flinders, George Town, Kentish, King Island, Latrobe, Meander Valley, Northern Midlands, Waratah-Wynyard, West Coast and West Tamar;

“**southern area**” means that part of the State comprising the cities of Clarence, Glenorchy and Hobart and the municipal areas of Brighton, Central Highlands, Glamorgan-Spring Bay, Huon Valley, Kingborough, New Norfolk, Sorell, Southern Midlands and Tasman;

“**special approved event**” means an approved event of the kind referred to in section 74E (2);

“**sports betting**” means betting on the result of approved events;

“**telephone betting premises**” means premises, approved by the Authority, that are located at a licensee’s approved venue and from which the licensee may conduct telephone sports betting and business;

“**telephone sports betting**” means betting on the result of approved events by means of a telephone.

Authority may issue telephone sports betting licences

74B—(1) The Authority may issue bookmakers with licences, called telephone sports betting licences, in accordance with this Division.

(2) No more than 2 licences are to be in force at one time.

(3) The Authority must exercise its powers under this Division so as to ensure that if 2 licences are in force at one time—

- (a) one of the licensees conducts telephone sports betting and business in the northern area; and
- (b) one of the licensees conducts telephone sports betting and business in the southern area.

(4) A licence may be issued to bookmakers who carry on betting and business in partnership.

Authority must call for expressions of interest if issuing a licence

74C—(1) If the Authority determines to issue a licence, it must call for expressions of interest from bookmakers interested in holding the licence.

(2) A call for expressions of interest is to be by notice placed in at least 3 newspapers published and circulated generally in the State.

- (3) The notice calling for expressions of interest is to—
- (a) indicate the main conditions of the proposed licence; and
 - (b) explain how prospective applicants may obtain copies of the proposed licence conditions in full; and
 - (c) explain when and how prospective applicants are to express their interest; and
 - (d) if no licence is in force when the notice is published—indicate that the notice applies to bookmakers who conduct betting and business in either area; and
 - (e) if a licence is in force when the notice is published—indicate, pursuant to section 74B (3), that the proposed licence would authorize telephone sports betting and business to be conducted only in the area opposite to the area in respect of which the subsisting licence is in force.

(4) Except as provided in this section, the procedure for calling for expressions of interest by prospective licensees is at the discretion of the Authority.

Determination of licensee

74D—(1) The Authority, after considering such expressions of interest as it may receive pursuant to section 74C, may determine which applicant is to be issued with the licence.

(2) The power of the Authority to determine which applicant is to be issued with the licence is exercisable at the Authority's discretion having regard to such matters as the Authority considers necessary or appropriate.

(3) Without limiting the generality of subsection (2), the matters that the Authority may have regard to in making a determination include the following:—

- (a) the financial and material resources of the applicants;
- (b) whether any of the applicants have experience of, or expertise in, conducting sports betting;
- (c) the reputation and conduct of the applicants as bookmakers;
- (d) the reputation and conduct of any bookmakers' clerks or other persons employed by the applicants in connection with bookmaking.

(4) A determination of the Authority under subsection (1) is of no effect unless it is approved by the Minister.

(5) The Authority may decline to issue a licence notwithstanding that it has called for and received expressions of interest pursuant to section 74C.

Telephone sports betting licences

74E—(1) A licence authorizes the holder of the licence, subject to this Division and the conditions specified in the licence—

- (a) to make bets with persons in respect of approved events, by means of a telephone installed in telephone betting premises located at the licensee's approved venue; and
- (b) while the licensee is physically present at a special approved event—to make bets in respect of that event with persons who are also physically present at that event.

(2) A special approved event is an approved event in respect of which a licensee has the written permission of the Director to conduct betting and business under his or her licence.

(3) A licence remains in force for a period of 3 years from the date on which it is issued unless it is sooner forfeited or surrendered.

(4) A licence may be surrendered to the Authority at any time.

(5) A licence is not transferable or renewable.

(6) A licence does not disentitle the licensee from conducting any other betting or business that he or she may lawfully conduct as a bookmaker in respect of horse races, greyhound races or approved events.

(7) If a licence is issued to bookmakers who carry on betting and business in partnership, the liability of those bookmakers in respect of the licence is, except as may be expressly provided in this Division or the licence, joint and several.

(8) A licensee may, if his or her licence is lost, damaged or destroyed, obtain a duplicate licence marked as such from the Authority on payment of a prescribed fee.

(9) A licence is to be in a form determined by the Authority.

Obligations of licensees

74F—A licensee—

- (a) must not make bets by telephone except in accordance with the licence; and
- (b) must not, as a licensee, make bets on horse races or greyhound races; and
- (c) must not conduct betting or business under the licence on Good Friday or Christmas day or at other times notified to the licensee in writing by the Authority; and
- (d) must, for verification purposes, make a recording of all bets made by telephone under the licence in such manner as the Authority from time to time directs, the costs of such verification to be at the expense of the licensee; and

- (e) must keep such betting, accounting and other records in respect of the licensee's betting and business under the licence as the Authority from time to time directs; and
- (f) must furnish to the Authority such returns in respect of the licensee's betting and business under the licence as the Authority from time to time directs.

Conditions of licences

74G—A licence is subject to—

- (a) such conditions determined by the Authority, and approved by the Minister, as are specified in the licence; and
- (b) such other conditions as may be prescribed.

Inspections

74H—(1) An officer of the Authority who is authorized by it in writing for the purpose may at any time enter a licensee's telephone betting premises and do all or any of the following:—

- (a) require the licensee or a person apparently in charge of the premises to produce for inspection any document held at the premises;
- (b) inspect and take notes of or extracts from any such document;
- (c) make a copy of any such document;
- (d) ask questions of, and seek explanations from, the licensee or other person apparently in charge of the premises in respect of any such document;
- (e) if any document reasonably believed by the officer to be connected to the betting and business conducted at the premises is not held at the premises—require the licensee or other person apparently in charge of the premises to disclose the whereabouts of the document;
- (f) remove, on furnishing a receipt, any document found at the premises to the custody and control of the Authority for so long as the Authority considers necessary or expedient for the purposes of this Part.

(2) A person must not obstruct, hinder or threaten an officer of the Authority acting in accordance with subsection (1).

Penalty: Fine not exceeding 20 penalty units.

(3) If, for legitimate reasons, a licensee needs access to a document that has been removed from the licensee's telephone betting premises pursuant to subsection (1) (f), the Authority must—

- (a) grant the licensee reasonable access to the document or to a copy of the document; or
- (b) give the licensee a copy of the document.

Control of licences

74I—(1) If—

- (a) a licensee is convicted in Tasmania or elsewhere of a summary offence involving dishonesty, or an indictable offence; or
- (b) a licensee, in that capacity, is convicted of an offence against this Act, whether personally or vicariously pursuant to section 80; or
- (c) the Authority is satisfied that a licensee has—
 - (i) contravened or failed to comply with a condition of his or her licence; or
 - (ii) contravened or failed to comply with an obligation under section 74F; or
 - (iii) as a licensee—been guilty of misconduct or defaulted in the payment of any bet; or
 - (iv) defaulted in the payment of any commission that the licensee is required to pay to the Authority under section 74L; or
- (d) a licensee is the subject of an inquiry under section 60AA or 60AAB—

the Authority may take such action under subsection (2) in respect of the licensee as the Authority considers appropriate in the circumstances.

(2) For the purpose of subsection (1), the Authority may—

- (a) cancel the licence; or
- (b) suspend the licence for a period, not exceeding 6 months, determined by the Authority; or
- (c) require the licensee to pay to the Authority a fine, not exceeding 20 penalty units, determined by the Authority; or
- (d) reprimand or caution the licensee.

(3) If the Authority takes action under subsection (2) (b), (c) or (d) it may also direct the licensee to take, or refrain from taking, specified action, either generally or within a specified period.

Cancellation and suspension of licences

74J—(1) Notwithstanding section 74I, the Authority must take the action specified in subsection (2) (a) of that section if it is satisfied in the circumstances that—

- (a) the licensee is no longer a fit and proper person to hold the licence; or
- (b) on some other ground, it is not in the public interest that the licensee should be allowed to continue the activities authorized by the licence.

(2) The Authority may, if it is satisfied in the circumstances that it is necessary or expedient in the public interest to do so, determine to cancel or suspend a licence by emergency procedure and, in any such case—

- (a) the Authority is not required to observe the rules of natural justice; and
- (b) the licence is cancelled or suspended when written notice of the Authority's determination, and the reasons for making the determination, is served on the licensee.

(3) In a case to which subsection (2) applies the Authority must, within 7 days after making the determination referred to in that subsection, give written notice of the determination, and its reasons for making the determination, to the Minister.

- (4) Except in a case to which subsection (2) applies—
- (a) the Authority must not cancel or suspend a licence without first—
 - (i) giving written notice of its intention to cancel or suspend the licence, and its reasons, to the Minister; and
 - (ii) affording the licensee a reasonable opportunity to be heard; and
 - (b) the cancellation or suspension of the licence takes effect at the expiration of the 14 day period after the date on which notice of the cancellation or suspension is served on the licensee.

(5) If a licensee ceases for any reason to be a registered bookmaker his or her licence is, by virtue of this subsection, cancelled forthwith without notice.

(6) Except for the purpose of sections 74E (4) and 74I and this section, a licence is not in force during any period of suspension.

(7) If a licence is cancelled, the person who held the licence must return it to the Authority within 7 days of the date of cancellation.

Penalty: Fine not exceeding 10 penalty units.

(8) If the Authority takes action against a bookmaker as a licensee pursuant to section 74I (1) (a), (b) or (c), it may take further action against that bookmaker under section 60AA or 60AAB if the Authority determines in the circumstances that the further action is merited.

Appeals

74K—(1) A bookmaker who is the subject of action by the Authority under section 74I (2) may appeal to a magistrate within 14 days after receiving notice of the Authority's action.

(2) At the hearing of an appeal, the magistrate may make one of the following orders:—

- (a) an order confirming the action taken by the Authority;
- (b) an order setting aside the action taken by the Authority;
- (c) an order setting aside the action taken by the Authority and further ordering that the Authority take such other action under section 74I (2) as is specified in the order.

(3) The Authority must comply with an order of a magistrate made under this section.

(4) Where a bookmaker appeals to a magistrate under this section, the action taken by the Authority under section 74I is, except in a case to which section 74J (2) applies, stayed pending the determination of the appeal.

(5) An appeal under this section is to be instituted, heard and determined as prescribed.

Payment of commission, &c.

74L—(1) A licensee must pay to the Authority an amount by way of commission equal to 1.5% of all money paid or payable, contingently or otherwise, in respect of all bets made by the licensee under the licence.

(2) If a licensee defaults in the payment of any commission, the Authority may recover the amount of the unpaid commission as a debt due to the Authority.

Sports Development Account

74M—(1) There is established in the Special Deposits and Trust Fund an account to be called the Sports Development Account.

(2) There is to be paid into the Sports Development Account 60% of the money that is paid to the Authority as commission by licensees pursuant to section 74L.

(3) The balance of the money that is paid to the Authority as commission by licensees is to be applied by the Authority towards its costs in administering this Division.

(4) The money standing to the credit of the Sports Development Account from time to time is, subject to the approval of the Treasurer, to be applied towards—

- (a) the development of community sporting facilities in the State; and
- (b) the advancement of community sporting activities in the State.

(5) The expenditure of money in the Sports Development Account is to be administered by the responsible Department in relation to the *Tasmanian International Velodrome Management Authority Act 1984*.

Unclaimed winnings

74N—(1) Except as provided by subsection (2), a licensee must—

- (a) keep unclaimed winnings in respect of business conducted under his or her licence separate from unclaimed winnings in respect of other business that may be conducted by the licensee as a bookmaker; and
- (b) deal with those unclaimed winnings in accordance with section 69 (4) (g) as if they were unclaimed winnings in respect of other bookmaking business.

Penalty: Fine not exceeding 10 penalty units.

(2) A return of unclaimed winnings in respect of a licence is, notwithstanding section 69 (4) (g), to be in such form as the Authority approves.

(3) The Registrar must deal with unclaimed winnings in respect of business conducted under licences as if they were unclaimed winnings in respect of bookmaking business conducted under Division 2.

Part V: Division 4 heading inserted

11—After section 74N of the Principal Act, as inserted by this Act, the following Division heading is inserted:—

Division 4—Offences**Section 75 amended (Prohibition of betting at certain odds, &c.)**

12—Section 75 of the Principal Act is amended by inserting the following subsection after subsection (3):—

(4) Subsection (3) does not apply to business carried on by a bookmaker under a telephone sports betting licence.

Section 77 amended (Offences by bookmakers)

13—Section 77 (1) of the Principal Act is amended as follows:—

- (a) by inserting in paragraph (d) “as authorized by a telephone sports betting licence or” after “except”;
- (b) by omitting from subparagraph (ii) of paragraph (f) “by him;” and substituting “by that bookmaker; or”;
- (c) by omitting from subparagraph (iii) of paragraph (f) “by him;” and substituting “by that bookmaker.”;
- (d) by omitting subparagraph (iv) from paragraph (f).

Section 78 amended (Offences by bettors)

14—Section 78 of the Principal Act is amended as follows:—

- (a) by omitting from subsection (1) “No person shall” and substituting “Subject to subsection (1A), a person must not”;
- (b) by inserting the following subsection after subsection (1):—

(1A) Subsection (1) (a) does not apply to a bet that is made by telephone with the holder of a telephone sports betting licence.

Section 119 amended (Regulations)

15—Section 119 (2) of the Principal Act is amended by inserting the following paragraph after paragraph (b):—

- (ba) prescribe or regulate any matters that it is necessary or expedient to prescribe or regulate in respect of telephone sports betting licences;

*[Second reading presentation speech made in:—
House of Assembly on 21 April 1994
Legislative Council on 27 April 1994]*