

Race and Sports Bookmaking (Rules for Sports Bookmaking) Determination 2005 (No 3)

Disallowable instrument DI2005—260

made under the

Race and Sports Bookmaking Act 2001, s23(1) - Rules for sports bookmaking

EXPLANATORY STATEMENT

The *Race and Sports Bookmaking Act 2001* (the Act) regulates the activities of sports bookmakers in the Australian Capital Territory.

Part 3 of the Act provides for the conduct and control of sports bookmaking. In particular, section 23 of the Act provides that the Gambling and Racing Commission may determine rules for sports bookmaking.

This Instrument provides for the rules for sports bookmaking and revokes DI2005-113 dated 30 June 2005 and notified under the Legislation Register on 7 July 2005. These rules do not include the rules for methods of betting, including the arrangements for telecommunication equipment or record keeping and audit requirements. These matters are dealt with under separate instruments made pursuant to section 23 of the Act.

The previous provisions entitled been revised and clarified to ensure that the rules for sports bookmakers are clearly articulated. The Instrument has been reformatted to reduce complexity as individual rules are now appropriately located within topic areas.

The previous provision for 'About These Rules' in the Schedule has been removed as this information is readily provided in the revised Instrument and Schedule.

Previous clause 1 also provided for clients of sports bookmakers to be bound by the Rules. This part of clause 1 has been removed as the provision is unnecessary as the Rules bind all sports

bookmakers and their transactions with clients.

Previous clause 3 and 4 duplicated information that is retained in the *ACT Legislation Act 2001*. Accordingly, these clauses have not been reproduced.

New clause 3, previously clause 5, provides for the general business principles for each sports bookmaker. This clause has been amended to ensure that the general business principles that sports bookmakers are expected to adopt are clearly articulated.

Previous clause 6 provided for sports bookmakers' obligations for the actions of their employees and agents. This provision has not been retained as vicarious liability attaches to the legal relationship between these sports bookmakers, employers and agents.

The provisions regarding the additional terms of business were previously located in clause 7. The additional terms of business have been replaced by new clause 4. This clause now adopts the concept of 'Terms for Betting Contracts' to more correctly reflect that betting transactions will be part of a betting contract. This new clause now establishes that fixed-odds betting transactions may be offered by a sports bookmaker on any outcome for a determined event, unless otherwise provided for under the Rules.

The provisions for telecommunications equipment was previously located under clause 8. This clause has been subsumed into a new instrument made under section 23 of the Act specifically for telecommunications equipment. The relocation of the telecommunications equipment provisions will ensure that all matters related to this topic are appropriately located within the one instrument.

New clause 5 regarding the requirement to confirm betting transactions was previously located in clause 9. The terminology in clause 9.1 for 'shall' has been amended to 'must' to ensure that it is clear that there is no discretion for sports bookmakers for confirming betting transactions by the prescribed method.

The provisions for record keeping, audit requirements and client statements for spread betting were previously located in clause 10, 11 and 12. These clauses have been subsumed into a new instrument made under section 23 of the Act that deals specifically with audit and record keeping requirements. The relocation of these clauses will ensure that all matters related to these topics are appropriately located within the one instrument.

New clause 6 was previously located in clause 15. Previous clause 15(2) regarding the requirement that a sports bookmaker must accept bets in accordance with the Rules, has been removed as a requirement for a sports bookmaker to comply with the Rules is expressly provided for in the Act.

Previous clause 16 provided for the prohibition of betting with minors. This provision has not been retained as section 23 of the *Gaming and Betting Act 1906* specifically provides for the prohibition and offences for betting with minors.

Previous clause 17, 18, 19, 20, 21, 22, 23 provided for the requirement to maintain segregated banking accounts for betting transactions. These clauses have been subsumed into a new instrument made under section 23 of the Act that deals specifically with audit and record keeping requirements. The relocation of these clauses will ensure that all matters related to segregated bank accounts are appropriately located within the one instrument.

New clause 7 provides for the provision of credit for spread betting transactions. These provisions were previously located at clause 13. The provisions have been reordered to ensure that the requirements for an approved credit management policy and compliance with the policy are articulated at the beginning of the clauses. Previous clause 13(4), now clause 7.5, has been amended to reflect that this clause is subject to clause 7.4, previously clause 13(2). Therefore clause 7.4 has removed the requirement for sports bookmakers to have regard to information disclosed by the client when assessing the suitability for credit arrangements as clause 7.5 now provides for the assessment mechanisms subject to clause 7.4.

New clause 8 provides for the determination of results for fixed-odds sports bookmaking events. These provisions were previously located at clause 24. The heading of the provision has been amended to reflect that the provisions within clause 24 only related to 'fixed-odds' sports bookmaking events. The provisions have been reformatted to provide clarity and this will now assist sports bookmakers and clients in understanding the provisions. The substance of the provisions have not been amended with the exception of clauses 8.3, 8.4, 8.9, 8.10, 8.12, 8.16 which now clearly articulate that the applicable rules are only overridden if at the time of making the betting transaction both the sports bookmaker and the client agree to any alternative terms in relation to a contingency. Previous clause 24(2)(b) has not been retained as this clause was an exact duplication of clause 24(2)(a).

New clause 9 provides for the individual requirements for fixed-odds betting. These provisions were previously located in clause 25.

Clause 25 provided prescriptive terms for betting outcomes for all determined sports bookmaking events. New clause 9 now only reflects individual requirements for Australian racing products, namely greyhound, harness and thoroughbred racing. These specific provisions have been retained due to the requirement for compliance with the Rules of Betting for each racing product which is declared by the appropriate Racing Controlling Authority. The removal of all other determined sports is an effect of new clause 4 which adopts the concept of 'Terms for Betting Contracts' that establishes that fixed-odds betting transactions may be offered by a sports bookmaker on any outcome for a determined event, unless otherwise provided for under the Rules. These provisions will now assist sports bookmakers in being able to more appropriately structure their betting transactions in accordance with sports bookmaking business requirements. The Commission will still determine the sports bookmaking events that are approved sports bookmaking events pursuant to section 20 of the Act, thereby ensuring that effective control mechanisms are in place to retain betting transactions on elite levels of sporting events. The changes introduced in new clause 9 do not apply to spread betting, parimutuel wagering or tote-odds betting.

New clause 10 provides the requirements for spread betting, also known as index betting, for clients. These provisions were previously located in clause 26. The provisions have been reordered to ensure that the requirements for an approved Risk Warning Notice and Terms of Business Advice and compliance with these requirements are articulated at the beginning of the clauses. Previous clause 26(3) required that Risk Warning Notices and Terms of Business Advice shall not be issued to a client unless approved by the Commission. New clause 10.1 has been inserted to make it clear that these notices and advice must be approved by the Commission before conducting spread betting transactions. The terminology in clause 10.2, 10.3 and 10.4, previously clause 26(4), 26(3) and 26(1) respectively, for 'shall' has been amended to 'must' to ensure it is clear that there is no discretion for sports bookmakers regarding the requirements for spread betting.

Previous clause 27 provided for spread betting margin requirements. These provisions have now been subsumed into new clause 11 and have only been amended to reflect the new numbering format for this Instrument.

Previous clause 28 dealt with the requirement for sports bookmakers to provide monthly statements to clients undertaking spread betting activities. This clause has been subsumed into a new instrument made under section 23 of the Act that deals specifically with audit and record keeping requirements. The relocation of this clause will

ensure that all matters related to client statements are appropriately located within the one instrument.

New clause 12 provides for spread betting outcomes and results. These provisions were previously retained in clause 29. The provisions have not been amended.

Previous clause 30, 31, 32 provided for:

- Performance indexes;
- Stop loss/stop win limits; and
- Mixed stop loss/stop win limits.

These provisions have now been consolidated into new clause 13. The provisions have not otherwise been amended.

New clause 14 provides the rules of spread betting for specified individual sports. These provisions were previously contained in clause 33 and have not been amended.

Previous clause 34 and 36 provide rules for parimutuel wagering. These provisions have now been subsumed into clause 15 and have not been amended except to reflect the new numbering format.

New clause 16 provides the rules for tote odds betting. These clauses were previously located in clause 36 to 42. The provisions have been amended to reflect the new numbering system. A further amendment has occurred due to clause 36 to 42 being consolidated into clause 16. This amendment reflects that tote odd bets may only be taken by a sports bookmaker in relation to specified sports bookmaking events, which are then listed in sub-paragraphs, previously in separate clauses. There has been no amendment to the events that are approved for tote odds betting.

The Dictionary has been amended to reflect the new concept of terms for betting contracts and the additional terms of business has been removed.