



**2010**

**THE LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**SL 2010-3**

**Racing (Race Field Information) Regulation 2010**

**EXPLANATORY STATEMENT**

**Circulated by the authority of  
Jon Stanhope MLA  
Acting Minister for Gaming and Racing**

## Overview

This regulation is made pursuant to provisions under new Divisions 5B.2 and 5B.3 of Part 5 of the *Racing Act 1999* (the Act).

In relation to the new Division 5B.2, the regulation provides the conditions applying to an approval of a licensed wagering operator to use ACT race fields information. It also provides an offence for failing to comply with a condition on approval.

In relation to new Division 5B.3, the regulation provides the requirements for the monthly returns to be made by approved licensed wagering operators, and requirements for monthly and annual payment of the race field information charge. It also sets the administration fee to be paid by the ACT racing controlling bodies to the Gambling and Racing Commission (the Commission) for undertaking functions to facilitate the operation of Divisions 5B.2 and 5B.3 of the Act.

## Notes on Clauses

### **Clause 1 Name of Regulation**

This clause is a formal provision setting out the name of the regulation.

### **Clause 2 Commencement**

This clause explains that the regulation will commence on the same day as the *Racing Amendment Act 2009*, section 4.

### **Clause 3 Dictionary**

Clause 3 is a formal provision stating that the dictionary at the end of the regulation contains terms and definitions specific to this regulation.

### **Clause 4 Notes**

This clause advises that notes are explanatory and not part of the regulation.

### **Clause 5 Offences against regulation – application of Criminal Code etc**

This clause advises that other legislation, such as the Criminal Code and Legislation Act, apply to the offences against this regulation.

### **Clause 6 Prescribed conditions of approval or renewal – Act, s61N(a)**

This clause provides the integrity conditions which apply to all licensed wagering operators approved to use ACT race fields information. It is likely that a significant number of licensed wagering operators approved to use ACT race field information will not be licensed in the ACT. As such, they are not bound by the licensing conditions and requirements in the ACT. These conditions provide a clear authority for the Commission to require certain minimum standards of licensed wagering operators who are approved to use ACT race field information regardless of whether or not they are licensed in the ACT. They also explicitly provide for the Commission to investigate and monitor wagering activity of wagering operators licensed in other jurisdictions, if they are approved to use ACT race field information.

Subsection (1)(a) provides that the licensed wagering operator must give the Commission access to betting information and analyses relating to the ACT race field information that the licensed wagering operator has been approved to use.

Subsection (1)(b) provides that, where reasonably required by the Commission, the licensed wagering operator must allow the Commission to monitor the licensed wagering operator's activity in relation to races conducted in the ACT such as bets held, bets paid and bet backs and any betting account.

Subsection (1)(c) provides for the minimum required security and integrity properties of the licensed wagering operator's operating and recording system. These are the prevention of unauthorised access and unauthorised changes to data and the provision of an audit trail of all wagering activity relating to authorised ACT race meetings.

Subsection (1)(d) provides that the licensed wagering operator must not open an account for betting for anyone unless that person has properly established their identity. An example of 'properly establishing identity' is the 100 points system used by authorised deposit taking institutions. This condition is both a harm minimisation measure (to ensure minors are not wagering) as well as a measure to minimise criminal activity such as money laundering.

Subsection (1)(e) requires that the licensed wagering operator must not open or maintain an account for betting if the operator knows that the account is for a person who is disqualified or suspended from participating in racing under any racing, gaming or wagering legislation, or is subject to a warning-off notice issue by a defined entity. A 'defined entity' is defined in the Dictionary at the end of the regulation.

Subsection (1)(f) requires the licensed wagering operator to provide information to the Commission, on reasonable grounds, where the Commission requires the information for an inquiry or investigation it is conducting. The information must be provided in a reasonable time and must be reasonably required by the Commission. The licensed wagering operator must also cooperate in an inquiry or investigation being conducted by the Commission.

Subsection (1)(g) requires that the licensed wagering operator, whose business involves online wagering, participate in an online wagering monitoring system if reasonably required to do so by the Commission.

Subsection (1)(h) requires the licensed wagering operator to notify the Commission of specific events that could impact on the integrity of the operator's operations. These events are: a change in persons or entities with a controlling interest in the operator's business; a prosecution or disciplinary action against the operator or other key people which is started under racing, gaming or wagering legislation or a rule of racing or betting; and a significant change in the financial circumstances of the operator.

## **Clause 7      Offence – failing to comply with condition on approval**

This clause makes it an offence for a licensed wagering operator to use ACT race field information and not comply with a condition on the approval. It sets a maximum penalty of a fine. The penalty is less than those prescribed in the new Division 5B.1 of the Act which deals with other offences relating to use of ACT race field information.

## **Clause 8      Monthly return on assessable turnover and relevant net revenue**

This clause requires approval holders to make a monthly return to the Commission. The information required in the return is assessable turnover and relevant net revenue from greyhound, harness and thoroughbred racing in the ACT. The terms ‘assessable turnover’ and ‘relevant net revenue’ are defined in the Act, Clause 61E. The approval holder must provide the information by the 14<sup>th</sup> day of the following month and must certify such information as true.

If a monthly return needs to be adjusted, the approval holder must provide an adjusted return explaining the variation and providing such return as soon as the need for the variation becomes apparent.

## **Clause 9      Monthly payment of race field information charge**

This clause provides for the process and timing for approval holders to make payment of the charge, where those approval holders are liable for the charge under clause 61S(1)(a) of the Act. These approval holders are liable to pay the charge if, at the time of approval or renewal of approval, their assessable turnover for the most recent financial year is more than the amount determined under clause 61S(4) of the Act. The Commission must advise the approval holder of the charge amount within 7 days of receipt, by the Commission, of the approval holder’s monthly return referred to in Clause 8 of the regulation. The approval holder must pay the charge on or before the 28th day of the month after the charge month. The payment is to be made by electronic funds transfer into the race field information fund specified in clause 61U of the Act.

## **Clause 10    Annual payment of race field information charge**

This clause provides for the process and timing for approval holders to make payment of the charge where those approval holders are liable for the charge under section 61S(1)(b) of the Act. These approval holders are liable to pay the charge where their assessable turnover for the most recent financial year is not more than the amount determined under clause 61S(4) of the Act but is more than that amount in the charge year. The Commission must advise the approval holder of the charge amount within 21 days of receipt, by the Commission, of the approval holder’s last monthly return referred to in Clause 8 of the regulation. The approval holder must pay the charge on or before the 28th day of August of the next financial year. The payment is to be made by electronic funds transfer into the race field information fund specified in clause 61U of the Act.

## **Clause 11    Administration fee**

This clause provides for the annual administration fee payable to the Commission for administering the race field information scheme to be 5% or \$100,000 whichever is the lesser. The fee will be apportioned across the controlling bodies in accordance with the race field information charges paid into the race field information fund in the year for which the controlling body has responsibility.

## **Dictionary**

This section inserts new terms relevant to this regulation and notes that some of the terms in the regulation are defined in either the Act or the Legislation Act.