

EXPLANATORY STATEMENT

**SEAT OF GOVERNMENT (ADMINISTRATION) ACT 1910
AUSTRALIAN CAPITAL TERRITORY
BOOKMAKERS (AMENDMENT) ORDINANCE 1986**

— No 33, 1986

The Bookmakers Ordinance 1985 (the Principal Ordinance) provides for the licensing of bookmakers operating at race meetings in the Australian Capital Territory, and the payment of fees by them.

The Senate Standing Committee on Regulations and Ordinances expressed its concern in relation to certain provisions of the Principal Ordinance. The main concern of the Committee related to search and entry powers. The other concerns were in respect of identity cards for the Registrar and inspectors, and certain errors and omissions in the Principal Ordinance.

In response to the Committee's request the Minister undertook to amend the Principal Ordinance.

Details of the Ordinance are set out in the Attachment.

The Ordinance has been agreed to by the Australian Capital Territory House of Assembly.

Ord. 30/86

ATTACHMENT

Section 1 and 2 deal with citation and interpretation.

Section 3 amends section 3 of the Principal Ordinance by inserting a definition of "Register".

Section 4 amends section 4 of the Principal Ordinance as follows:

- a) by omitting sub-section (9) which provided for the issue of a certificate to the Registrar;
- b) by inserting a new sub-section (9) which provides for the issue by the Minister to the Registrar of an identity card bearing the person's photograph;
- c) by inserting a new sub-section (10) which requires a person who ceases to be Registrar to return to the Minister his or her identity card; and
- d) by inserting a new sub-section (11) which imposes a penalty of \$100 for failure, without reasonable excuse, to comply with sub-section (10).

Section 5 amends section 5 of the Principal Ordinance as follows:

- a) by omitting sub-section (3) which provided for the issue of a certificate to an inspector;
- b) by inserting a new sub-section (3) which provides for the issue by the Minister to an inspector of an identity card bearing the person's photograph;
- c) by inserting a new sub-section (4) which requires a person who ceases to be an inspector to return to the Minister his or her identity card; and
- d) by inserting a new sub-section (5) which imposes a penalty of \$100 for failure, without reasonable excuse, to comply with sub-section (4).

Section 6 inserts a new section 5A into the Principal Ordinance which provides for the establishment and maintenance by the Registrar of a Register of Bookmakers.

Section 7 amends section 18 of the Principal Ordinance to ensure that powers of entry and search in relation to a racecourse are exercised by reference to objective rather than subjective standards by omitting from sub-section (1) the expression "as he or she thinks necessary" and substituting "as is necessary and reasonable".

Section 8 amends section 19 of the Principal Ordinance to ensure that powers of entry and search in relation to non-residential premises are exercised by reference to objective rather than subjective standards by omitting from sub-section (1) the expression "as the Registrar or inspector thinks necessary" and substituting "as is necessary and reasonable".

Section 9 amends section 21 of the Principal Ordinance to ensure that powers of entry and search under a search warrant are exercised by reference to objective rather than subjective standards and to remove the power to seize things found during a search but not covered by the warrant, as follows:

- a) by omitting from sub-section 21(1) the expression "as he or she thinks necessary and if necessary by force" and substituting "as is necessary and reasonable and by such force as is necessary and reasonable"; and
- b) by omitting sub-section 21(4) which provided for the seizure of things connected with offences against the Ordinance which are not of a kind specified in the warrant.

Section 10 amends section 22 of the Principal Ordinance to ensure that written consent is obtained from the occupier before a search is conducted, as follows:

- a) by inserting a new sub-section(2) which requires the person conducting the search to obtain written acknowledgment by the occupier of the fact that the occupier has been informed that he or she may refuse consent; of the fact that he or she has voluntarily consented, and the date and time of the consent;
- b) by inserting a new sub-section (3) which provides that entry by the Registrar or an inspector is unlawful unless consent is voluntarily given by the occupier; and
- c) by inserting a new sub-section (4) which provides that in any proceedings, the court shall assume that, where an acknowledgment in accordance with sub-section (2) signed by the person is not produced in evidence, voluntary consent was not given, unless the contrary is proved.

Section 11 amends sub-section 25(3) of the Principal Ordinance to correct an error by omitting the first occurring "the" and substituting "in".

Section 12 amends sub-section 30(4) of the Principal Ordinance to correct an error by omitting "28" and substituting "29".

Section 13 inserts a new section 36A into the Principal Ordinance to provide that where a bookmaker's agent's licence is granted to a person, the Registrar is to issue a bookmaker's agent's licence to the person and to enter prescribed particulars in the Register.

Section 14 amends section 37 of the Principal Ordinance to clarify that a bookmaker's agent's licence is only to be granted either in an emergency or for a limited time by limiting the duration of an agent's licence to not more than 3 months, unless sooner surrendered or cancelled.

Section 15 amends section 44 of the Principal Ordinance to correct an error by omitting the words "sub-section 43(1)" and substituting "section 43".

Section 16 amends sub-section 51(3) of the Principal Ordinance to provide that the validity of a decision is to be unaffected by a failure to include a statement of appeal rights, rather than the current failure to include a statement of reasons, by omitting "that sub-section" and substituting "sub-section (2)".