

EXPLANATORY STATEMENT

SEAT OF GOVERNMENT (ADMINISTRATION) ACT 1910
AUSTRALIAN CAPITAL TERRITORY
BOOKMAKERS ORDINANCE 1985
BETTING (TOTALIZATOR AGENCY) (AMENDMENT) ORDINANCE 1985

No. 42 of 1985

The Bookmakers Ordinance 1985 provides for the licensing of bookmakers operating at race meetings in the Australian Capital Territory. Previously such bookmakers were not required to be licensed or to pay fees. The Ordinance ensures that bookmakers fielding on racecourses in the Territory are required to hold licences and to pay fees in respect of all bets made with them. This is consistent with practices in all the States and the Northern Territory, where some form of turnover tax is imposed.

The Betting (Totalizator Agency) (Amendment) Ordinance 1985 amends the Betting (Totalizator Agency) Ordinance 1964 ("the principal Ordinance") to enable the Minister to determine the percentage amount to be set aside in an account in the Board's books under sub-section 29(1) of the principal Ordinance.

As the Ordinances form part of the Government's budgetary programme they have not been referred to the Australian Capital Territory House of Assembly for consideration and advice.

Details of the Ordinances are set out in Attachments A and B.

ORD 46/85

ORD 47/85

BOOKMAKERS ORDINANCE 1985

Section 1 cites the short title of the Ordinance as the Bookmakers Ordinance 1985.

Section 2(1) provides for the commencement of sections 1 and 2 on the day on which the Ordinance is notified in the Gazette.

Section 2(2) provides for the commencement of section 3, Division 1 and 2 of the Part II; and Parts III and V (other than sections 29, 30, 31, 33, and 47) on the date fixed by the Minister of State for Territories by notice in the Gazette.

Section 2(3) provides for the commencement of the remaining provisions on 1 October 1985.

Section 3 deals with interpretation.

Section 4(1) provides for the appointment by the Minister of a Registrar of Bookmakers.

Section 4(2) enables the Minister to appoint a person to act as the Registrar for a period not exceeding 12 months.

Section 4(3) allows restrictions to be placed as to the circumstances in which an appointment to act will have effect.

Section 4(4) empowers the Minister to terminate the appointment of an acting Registrar at any time.

Section 4(5) enables a person acting as the Registrar to continue acting in the office if the office of Registrar becomes vacant during the period of the appointment to act until the Minister directs otherwise or until the vacancy is filled or until 12 months from the date of the vacancy, whichever occurs first.

Section 4(6) provides for the resignation of a person appointed to act as the Registrar.

Section 4(7) ensures that a person appointed to act as the Registrar will have the same powers and functions as the Registrar.

Section 4(8) ensures the validity of acts done by a person purporting to act as the Registrar in the case where there is a defect or irregularity in the person's appointment.

Section 4(9) provides for a certificate signed by the Minister to be issued to the person appointed as Registrar or acting Registrar stating that the person is the Registrar of Bookmakers.

Section 5(1) provides for the appointment by the Minister of inspectors for the purposes of the Ordinance.

Section 5(2) provides that an inspector is to perform such duties as the Registrar directs.

Section 5(3) provides for a certificate signed by the Minister to be issued to a person appointed as an inspector stating that the person is an inspector for the purposes of the Ordinance.

Section 6 establishes the Bookmakers Licensing Committee.

Section 7 defines the functions of the Committee to be the consideration and determination of licence applications and other matters relating to licences.

Section 8 empowers the Committee to do all things necessary to carry out its functions.

Section 9(1) constitutes the Committee with 5 part-time members of whom:

- a) one is to be an officer of the Public Service;
- b) one is to be a nominee of the Australian Capital Territory Racing Club;
- c) one is to be a nominee of the Canberra Trotting Club;
- d) one is to be a nominee of the Canberra Greyhound Racing Club; and
- e) one is to be a nominee of the ACT Bookmakers Association.

Section 9(2) prescribes the term of office of a member of the Committee as a period not exceeding 3 years and allows the re-appointment of a member.

Section 10 stipulates that the Chairman of the Committee is to be the officer of the Public Service referred to in section 9(1)(a), or the person appointed under section 13 to act as Chairman.

Section 11 provides for the resignation of a member of the Committee.

Section 12(1) enables the Minister to remove a member, other than the Chairman, from office on the grounds of misbehaviour or physical or mental incapacity.

Section 13(1) authorizes the appointment of a person to act as a member of the Committee and prescribes the circumstances in which a person may be so appointed, and limits such an appointment to a period not exceeding 12 months.

Section 13(2) ensures that a person appointed to act as a member of the Committee, other than a person appointed to act as Chairman, is to be a nominee of the body that nominated the member in whose place the person is to act.

Section 13(3) makes provision for an acting member of the Committee to be removed from office.

Section 13(4) provides for the resignation of an acting member of the Committee.

Section 13(5) ensures that an acting member of the Committee has the same powers and functions as a member of the Committee.

Section 14(1) provides for the holding of meetings of the Committee.

Section 14(2) authorizes the Chairman of the Committee to convene a meeting of the Committee at any time.

Section 14(3) provides for the Chairman to preside at meetings of the Committee.

Section 14(4) provides that the Chairman plus 2 other members of the Committee form a quorum.

Section 14(5) provides that matters being considered by the Committee will be decided by a majority of votes.

Section 14(6) provides that the Chairman is to have a deliberative vote and also a casting vote in the event of an equality of votes.

Section 15(1) provides for the disclosure of a member's pecuniary interest in a matter to be considered by the Committee.

Section 15(2) provides that a member who has disclosed a pecuniary interest in a matter will not, unless the Minister or the Committee otherwise determines, be present while the Committee considers or makes a decision on the matter.

Section 15(3) deals with the making of a determination by the Committee in respect of a member who has disclosed a pecuniary interest.

Section 15(4) provides that the member who is the nominee of the ACT Bookmakers Association will not be regarded as having a pecuniary interest in a matter by reason only that he is a bookmaker.

Section 15(5) provides for the termination of the appointment of a member who does not comply with the requirements relating to pecuniary interest.

Section 16 confers on a member of the Committee the same protection and immunity as a Judge of the Supreme Court.

Section 17 provides for remuneration to be paid to members of the Committee under the Remuneration Ordinance 1976.

Section 18(1) confers on the Registrar or an inspector the power to enter a racecourse while a race meeting is being conducted.

Section 18(2) authorizes the Registrar or an inspector, where a racecourse has been entered, to inspect or take extracts from or copies of any books, documents or records relating to the taking of bets, and to obtain information relating to the books, documents or records from a bookmaker or an employee of a bookmaker, and to obtain the name and address of the person who has the books, documents or records.

Section 19(1) authorizes the registrar or an inspector to enter the bookmaker's non-residential premises for the purpose of ensuring compliance with the Ordinance.

Section 19(2) requires the Registrar or an inspector to produce the certificate issued by the Minister on the request of the occupier of the premises.

Section 19(3) authorizes the Registrar or an inspector, where he has entered the bookmaker's non-residential premises, to inspect or take extracts from or copies of any books, documents or records relating to bookmaking, and to obtain information relating to bookmaking and to obtain the name and address of the person in charge of the premises.

Section 19(4) requires the person in charge of premises entered to provide assistance to the Registrar or an inspector.

Section 20 restricts the powers of entry of the Registrar or an inspector onto premises generally except when acting under sections 18 and 19, to searches conducted after a warrant has been issued under section 21 or after obtaining the consent of the occupier of the premises.

Section 21(1) makes provision for a Magistrate to issue a search warrant to the Registrar or an inspector.

Section 21(2) directs a Magistrate not to issue a warrant under section 21(1) unless any further information that the Magistrate requires connected with the grounds for issuing the warrant is given to the Magistrate, and the Magistrate is satisfied that there are reasonable grounds for issuing the warrant.

Section 21(3) provides that a warrant must include a statement of the purpose for which the warrant is issued, including a reference to the nature of the offence in relation to which the search and entry powers are to be exercised. A warrant must also specify the times of the day or night that entry is authorized, and the date on which the warrant expires.

Section 21(4) provides for the situation where the Registrar or an inspector finds books, documents or records of a type not specified in the warrant or relating to an offence against the Ordinance other than that specified in the warrant in which case the warrant will be deemed to authorize the exercise of the powers under section 19(3) in relation to those books, documents or records.

Section 22 ensures that the person concerned is informed that he or she may refuse to give consent for the Registrar or an inspector to enter premises.

Section 23 makes it an offence to obstruct the Registrar or an inspector in the exercise of his powers, or not to comply with a reasonable requirement of the Registrar or an inspector.

Section 24(1) entitles a person authorized by a licensing body to operate as a bookmaker at race meetings of a kind run by that licensing body to apply for a standing licence.

Section 24(2) specifies that a standing licence is to be in writing, specify the kind of race meetings to which the application relates and be accompanied by the determined fee.

Section 25(1) requires the Registrar to grant a standing licence subject to section 25(2).

Section 25(2) directs the Registrar to refer to the Committee an application for a standing licence in any case where the applicant has been convicted of an offence against the Ordinance or regulations or against a corresponding law, or where the applicant has been convicted in the past 5 years in Australia of an offence punishable by imprisonment for 12 months or more, or where the applicant has failed to pay an amount due under the Ordinance.

Section 25(3) empowers the Committee, in a case where an application has been referred to it by the Registrar, to refuse to grant a licence if the applicant has been convicted of an offence against the Ordinance or regulations or against a corresponding law, or if the applicant has been convicted in the past 5 years of an offence punishable by imprisonment for 12 months or more, or if the applicant has failed to pay an amount due under the Ordinance.

Section 25(4) ensures that a person whose application is referred to the Committee is notified in writing of the referral and of his or her rights under section 34.

Section 25(5) ensures that a person whose application for a standing licence has been refused by the Committee is notified in writing of the decision.

Section 26(1) provides that where a standing licence is granted, the Registrar or the Committee is to specify the kind of race meetings to which the licence relates and will ensure that each standing licence will apply to only one kind of race meeting.

Section 26(2) allows a bookmaker to hold more than 1 standing licence at any time.

Section 27 provides for the Registrar to issue a standing licence where an application is granted, and to enter the prescribed particulars in the Register.

Section 28 provides for standing licences to expire each year on 30 June.

Section 23 makes it an offence to obstruct the Registrar or an inspector in the exercise of his powers, or not to comply with a reasonable requirement of the Registrar or an inspector.

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Section 27 provides for the Registrar to issue a standing licence where an application is granted, and to enter the prescribed particulars in the Register.

Section 28 provides for standing licences to expire each year on 30 June.

Section 29(1) prescribes the fee for a standing licence to be a percentage of the amount paid or promised to the bookmaker as consideration for all bets made with the bookmaker at each race meeting at which the bookmaker operates.

Section 29(2) provides for the licence fee to be payable within 7 days of the conduct of the race to which the bets relate.

Section 29(3) enables the amount paid or promised to a bookmaker, for the purpose of calculating the licence fee, to be determined by reference to the records kept by the bookmaker.

Section 29(4) provides for the situation where the bookmaker's records are lost or destroyed. The amount of licence fee payable will be determined by the Registrar by reference to the bookmaker's records relating to race meetings held over the previous 6 months.

Section 30(1) requires the Registrar, where he or she has determined an amount payable under section 29(4), to notify the bookmaker in writing of the amount. The bookmaker will then have 7 days in which to pay the amount determined, and will be enabled, within 28 days, to request the Registrar to reconsider the determination.

Section 30(2) prohibits the Registrar from reconsidering a determination where an application has been made to the Administrative Appeals Tribunal under section 50.

Section 30(3) ensures that a reconsideration of a determination by the Registrar will be carried out within 28 days of the Registrar receiving the request, and that the bookmaker concerned will be notified of the result of the reconsideration.

Section 30(4) provides for the situation where on a reconsideration of a determination the amount payable by a bookmaker is reduced, in which case the difference is payable to the bookmaker.

Section 30(5) provides for the situation where on a reconsideration of a determination the amount payable by a bookmaker is increased, in which case the additional amount will be payable by the bookmaker within 7 days of the bookmaker receiving the notification.

Section 31 makes provision for a penalty of 10 percent of the amount payable if a fee is not paid on or before the date on which it is due.

Section 32 requires a person to sign his or her licence in the presence of a prescribed person. A penalty of \$500 is provided.

Section 33(1) empowers the Committee to suspend or cancel a standing licence if the holder of the licence has been convicted of an offence against the Ordinance or the regulations or against a corresponding law, or if the holder has been convicted in Australia of an offence punishable by imprisonment of 12 months or more, or if the holder has failed to pay the Registrar an amount due under the Ordinance.

Section 33(2) ensures that the holder of the licence is notified in writing of the suspension or cancellation, as the case may be, and will specify that the suspension or cancellation will take effect from the day after the date of notification.

Section 33(3) requires the Committee to suspend or cancel all standing licences held by the person, in the case where the person holds more than 1 standing licence.

Section 34 confers on a bookmaker the right to make representations to the Committee either in writing or in person in any case where the Committee is considering an application by the bookmaker for a standing licence, or is considering suspension or cancellation of the bookmaker's licence.

Section 35(1) allows a licensed bookmaker to apply to the Registrar for a bookmaker's agent's licence in respect of a person nominated by the bookmaker.

Section 35(2) provides that a licensed bookmaker may only apply for a bookmaker's agent's licence if the person nominated for this purpose is authorized by a licensing body to act for the bookmaker at race meetings of the kind conducted by that licensing body.

Section 35(3) prescribes that an application for a bookmaker's agent's licence should be in writing, contain the prescribed particulars and be accompanied by a copy of the licensing body's approval referred to in section 35(2).

Section 35(4) provides for the situation where a bookmaker is unable to apply for a bookmaker's agent's licence, in which case the person authorized by the licensing body to act for the bookmaker may apply for the licence.

Section 36(1) requires the Registrar to issue a bookmaker's agent's licence on receipt of an application, subject to section 36(2).

Section 36(2) directs the Registrar not to grant a bookmaker's agent's licence if the person to whom the application relates has applied for a standing licence and has been refused or has held a standing licence that has been cancelled or has been convicted of an offence against the Ordinance or regulations or against a corresponding law.

Section 36(3) ensures that where the Registrar has refused to grant a bookmaker's agent's licence the person nominated and the applicant will be notified in writing of the refusal.

Section 36(4) provides that a bookmaker's agent's licence will specify the kind or kinds of race meeting at which the bookmaker's agent may operate.

Section 37 provides for a bookmaker's agent's licence to remain in force for the period specified in the licence.

Paragraph 38(a) deems a bookmaker's agent, while his or her licence is in force, to be a bookmaker for the purposes of

the provisions relating to the payment of fees, and the offence provisions in Part IV of the Ordinance.

Paragraph 38(b) imposes a liability on the bookmaker concerned for any fees that become payable while a bookmaker's agent's licence is in force if the fees remain unpaid.

Section 39 provides for the cancellation of a bookmaker's agent's licence in the event that the bookmaker concerned has his or her licence cancelled or suspended.

Section 40 makes it an offence for a bookmaker to operate at a race meeting in the Territory unless he has a standing licence authorizing him to field at race meetings of that kind. The penalty is \$2,000.

Section 41 makes it an offence for a bookmaker to operate at a race meeting in the Territory unless the standing licence has been signed in accordance with section 32. The penalty is \$2,000.

Section 42(1) requires a bookmaker operating at a race meeting, on the request of the Registrar, an inspector or a police officer, to produce his standing licence and to write his signature for the purpose of comparison with the signature on the standing licence.

Section 42(2) makes it an offence for a bookmaker to refuse or fail to comply with a request made under section 42(1). The penalty is \$1,000.

Section 43 requires a bookmaker to record all bets made with him on a form supplied by the Registrar. The penalty is \$2,000.

Section 44 requires a bookmaker to forward his record of all bets made with him no later than 7 days after the race is held to which the bets relate. The penalty is \$1,000.

Section 45 requires a racing club to forward to the Registrar within 7 days of a race meeting the name and address of every bookmaker who operated at that race meeting, and will provide a penalty for failing to furnish the required information. The penalty is \$5,000.

Section 46 makes it an offence for a racing club to knowingly allow an unlicensed bookmaker to operate at a race meeting conducted by that racing club. The penalty is \$10,000.

Section 47 requires the Registrar to ensure that the forms referred to in section 43 are made available to bookmakers.

Section 48 provides for the licensing bodies to be notified whenever a standing licence is issued, suspended or cancelled, together with the name and address of the bookmaker concerned and in the case of suspension the period for which a licence is suspended.

Section 49 enables evidence that a person did or did not hold a standing licence to be given by means of a certificate signed by the Registrar.

Section 50(1) provides for appeals to be made to the Administrative Appeals Tribunal from a decision of the Committee to refuse a standing licence or to suspend or cancel a licence.

Section 50(2) provides for appeals to be made to the Administrative Appeals Tribunal from a decision of the Registrar in making a determination of fees under section 29(4) or in reconsidering a determination of fees under section 30.

Section 51(1) provides for a statement of reasons to be sent with notification of a decision to refuse a standing licence, to suspend or cancel a licence, or a reconsideration of determined fees.

Section 51(2) ensures that a person notified of a decision is made aware that a person whose interests are adversely affected by the decision is able to appeal to the Administrative Appeals Tribunal.

Section 51(3) ensures the validity of a decision in the case where section 51(1) has not been complied with.

Section 52(1) provides for documents to be lodged with the Registrar by personally delivering the documents, or by sending the documents by certified mail, or by leaving the documents at the office of the Registrar.

Section 52(2) provides for documents to be given to a person other than the Registrar by personally delivering the documents, or by leaving the documents at the person's place of business or residence, or by sending the documents by post.

Section 53 fixes the limitation period for the prosecution of an offence against the Ordinance to be 2 years after the commission of the offence.

Section 54 requires the Committee to submit an annual report on the activities of the Committee.

Section 55 enables the Minister to determine fees for the purposes of the Ordinance by notice in the Gazette.

Section 56 empowers the Minister to make regulations for the purposes of the Ordinance.

Section 57 provides for a transitional period of 2 months from the date of commencement of the Ordinance during which time a bookmaker who immediately before the commencement of the Ordinance was authorized to operate as a bookmaker in the Territory will be entitled to apply for a standing licence.

ATTACHMENT B

BETTING (TOTALIZATOR AGENCY) (AMENDMENT) ORDINANCE 1985

Section 1 cites the short title of the Ordinance as the Betting (Totalizator Agency) (Amendment) Ordinance 1985.

Section 2 provides that the amending Ordinance will come into effect on the date fixed by the Minister by notice in the Gazette.

Section 3 amends sub-section 29(1) of the Betting (Totalizator Agency) Ordinance 1964 by providing that the amount to be set aside in an account in the Board's books is to be 2 per cent or such other percentage as the Minister may determine.