

TASMANIA

**GAMING CONTROL AMENDMENT (BETTING
EXCHANGE) BILL 2005**

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GAMING CONTROL AMENDMENT (BETTING EXCHANGE) BILL 2005

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

P. R. ALCOCK, *Clerk of the House*
10 November 2005

(Brought in by the Treasurer, the Honourable Paul Anthony Lennon)

A BILL FOR

An Act to amend the *Gaming Control Act 1993* to make provision for the licensing and operation of betting exchanges and to consequentially amend the *TOTE Tasmania (Racing Regulation) Act 2004*

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:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Gaming Control Amendment (Betting Exchange) Act 2005*.

2. Commencement

This Act commences on the day on which this Act receives the Royal Assent.

PART 2 – GAMING CONTROL ACT 1993 AMENDED**3. Principal Act**

In this Part, the *Gaming Control Act 1993** is referred to as the Principal Act.

4. Section 3 amended (Interpretation)

Section 3(1) of the Principal Act is amended as follows:

- (a) by omitting the definition of “authorised deposit-taking institution”;
- (b) by inserting the following definitions after the definition of “authorized person”:

“**betting exchange**” has the meaning given by section 76ZDB;

“**betting exchange commission**” has the meaning given by section 76ZDB;

“**betting exchange operator**” has the meaning given by section 76ZDB;

“**broker wagering**” has the meaning given by section 76ZDB;

*No. 94 of 1993

“brokered wagering event” has the meaning given by section 76ZDB;

- (c) by omitting the definition of “contravene”;
- (d) by omitting the definition of “fee unit”;
- (e) by omitting the definition of “gaming activity” and substituting the following definition:

“gaming activity” means –

- (a) the wagering in a contingency relating to a sports event, fixed odds wagering event, simulated game, major lottery, pools or prescribed event (where the event, simulated game, major lottery, pools or prescribed event is not a prohibited gaming activity); and
 - (b) the wagering in a contingency relating to a brokered wagering event (where the event is not a prohibited gaming activity);
- (f) by inserting the following paragraph after paragraph (d) in the definition of “gaming endorsement”:

- (da) a betting exchange endorsement;
and
- (g) by omitting the definition of “player” and substituting the following definition:

“player” means a person who (otherwise than as a licensed provider or the employee of a licensed provider) –

- (a) wagers on an approved sports event, fixed odds wagering event, major lottery, pools, prescribed event or simulated game;
or
 - (b) wagers, through a betting exchange, on a brokered wagering event;
- (h) by inserting the following definition after the definition of “ticket”:

“TOTE Tasmania” means the company formed under section 6 of the *TOTE Tasmania Act 2000* as TOTE Tasmania Pty. Ltd.;

- (i) by inserting the following definition after the definition of “wager”:

“wagering funds”, of a registered player, means –

- (a) funds deposited or transferred for wagering purposes; and

- (b) funds obtained from winning wagers;

5. Section 76VA inserted

After section 76V of the Principal Act, the following section is inserted in Division 4:

76VA. Authority of Tasmanian gaming licence with betting exchange endorsement

A Tasmanian gaming licence endorsed with a betting exchange endorsement authorises the licensed provider, subject to this Act and any conditions to which the Tasmanian gaming licence is subject, to –

- (a) operate a betting exchange by way of a telecommunications device; and
- (b) broker wagering through that betting exchange; and
- (c) do all things necessarily incidental to carrying on the activities referred to in paragraphs (a) and (b).

6. Part 4A, Division 5 inserted

After section 76ZC of the Principal Act, the following Division is inserted in Part 4A:

Division 5 – Betting exchange operations
Subdivision 1 – Introductory

76ZDA. Application of Division

This Division applies to a Tasmanian gaming licence with a betting exchange endorsement.

76ZDB. Interpretation of Division

In this Division –

“approved form” means a form approved by the Commission;

“betting exchange” means a facility that enables persons to –

- (a) place or accept, through the betting exchange operator, wagers with other persons; or
- (b) place with the betting exchange operator wagers that, on acceptance, are matched with opposing wagers placed with and accepted by the operator (so as to offset all risk to the operator);

“betting exchange commission” means commission that, under section 76ZDD, a betting

exchange operator is entitled to in respect of brokered wagering;

“betting exchange exclusion order” means an order made by the Commission under section 76ZDI(3)(a);

“betting exchange operator” means the holder of a Tasmanian gaming licence with a betting exchange endorsement;

“broker wagering” means, by means of a betting exchange, to broker wagering between persons –

- (a) directly (as in the manner referred to in paragraph (a) of the definition of “betting exchange”); or
- (b) indirectly, by matching opposing bets placed with and accepted by the betting exchange operator (as in the manner referred to in paragraph (b) of the definition of “betting exchange”);

“brokered wagering event” means a competition or event, whether of a sporting or non-sporting kind, in respect of which a betting exchange operator brokers wagering;

“excluded person”, in relation to a betting exchange operator, means a person who is excluded from wagering through the operator’s betting exchange because of –

- (a) a betting exchange self-exclusion notice; or
- (b) a betting exchange exclusion order;

“instruct” means instruct by instrument in writing;

“lead-in period”, in relation to a betting exchange operator, means the 12-month period immediately following the date on which the operator’s Tasmanian gaming licence is first endorsed with a betting exchange endorsement;

“regulatory Agency” means –

- (a) the Commission; or
- (b) the Director of Racing appointed under section 5 of the *Racing Regulation Act 2004*; or
- (c) a Council within the meaning of the *Racing Regulation Act 2004*; or
- (d) another person or body, nominated by the Commission, that, either in this State or elsewhere,

exercises powers or performs functions in respect of the conduct of racing or gaming activities;

“Tasmanian betting exchange operations”, of a betting exchange operator, means the brokered wagering conducted under the operator’s betting exchange endorsement;

“wagering rules” means rules that a licensed provider is required to have in place pursuant to section 76ZDC(d).

Subdivision 2 – Licensing provisions

76ZDC. Special conditions

A Tasmanian gaming licence with a betting exchange endorsement is, in addition to any other conditions it may have, subject to the following special conditions:

- (a) the licensed provider must only broker wagering for registered players;
- (b) the wagering funds of registered players must be held in trust by the licensed provider (or by an agent of the licensed provider approved by the Commission) and must not be disbursed or

otherwise dealt with except as authorised under this Act or as the Commission, by instrument in writing, from time to time authorises;

- (c) for the purposes of paragraph (b), an account used for the licensed provider's Tasmanian betting exchange operations must –
 - (i) not be used for any other purposes; and
 - (ii) be maintained with an authorised deposit-taking institution that carries on business in Australia, at a branch or office of that institution that is physically located in Tasmania; and
 - (iii) be independently audited at least once every 12 months, and at such other times as the Commission may instruct;
- (d) the licensed provider must have in place wagering rules for each brokered wagering event and its contingencies and ensure that registered players can consult those rules electronically;
- (e) the licensed provider must ensure that the Commission is able to

inspect the wagering rules electronically at any time;

- (f) the Commission, in its discretion, may, by means of an instruction, disallow any wagering rules that it considers to be –
 - (i) oppressive or unfair; or
 - (ii) inadequate or incomplete; or
 - (iii) misleading, inaccurate or poorly drafted; or
 - (iv) unsatisfactory on other grounds;
- (g) the licensed provider must not broker wagering under disallowed wagering rules;
- (h) the licensed provider must not broker wagering in respect of a contingency for which there are no wagering rules;
- (i) any wagering that occurs under wagering rules before their disallowance is to be settled as the Commission, either generally or in the specific case and whether before or after the settlement of wagering, instructs;
- (j) the Commission, in its discretion, may instruct the licensed provider not to broker wagering on a competition or event that the

Commission considers is not a fit subject for betting exchange wagering and the licensed provider must comply with that instruction;

- (k) any wagering that occurs in respect of brokered wagering events before their prohibition under paragraph (j) is to be settled as the Commission, either generally or in the specific case and whether before or after the settlement of wagering, instructs;
- (l) the licensed provider must not broker wagering on contingencies relating to –
 - (i) competitions or events held in Tasmania that are unlawful; or
 - (ii) competitions or events held elsewhere that would, if they were to be held in Tasmania, be unlawful;
- (m) the licensed provider must, in taking any betting exchange commission authorised under section 76ZDD, comply with such conditions as the Commission specifies in the authorisation;
- (n) the licensed provider must, for –

(i) the purpose of ensuring the probity of brokered wagering and brokered wagering events; and

(ii) other purposes determined by the Commission –

furnish such regulatory Agencies with such information in such time and manner as the Commission from time to time instructs the licensed provider;

(o) the Commission may, for fee or otherwise, for –

(i) the purpose of ensuring the probity of brokered wagering and brokered wagering events; and

(ii) other purposes determined by the Commission –

furnish another regulatory Agency with information furnished to the Commission by the licensed provider.

76ZDD. Betting exchange commission

- (1) A Tasmanian gaming licence with a betting exchange endorsement entitles its holder to such commission in respect of brokered wagering as the Commission from time to time authorises in writing.

- (2) Authorisations under subsection (1) may be of –
- (a) general application; or
 - (b) specific application, with the result that different rates of commission may apply in such different circumstances (whether as to time, wagering category or otherwise) as are specified in the authorisations.

Subdivision 3 – Licensing of employees

76ZDE. Certain employees to be issued with special employee's licence

- (1) This section applies to a person who is employed by a betting exchange operator during the lead-in period to exercise or perform a function (referred to in this section as “the function”) of a special employee for the operator's Tasmanian betting exchange operations.
- (2) The Commission, as soon as practicable after the commencement of the lead-in period or, if applicable, after the person is employed, is to issue the person with a special employee's licence under Division 3 of Part 4 authorising the person to exercise or perform the function.
- (3) The special employee's licence so issued remains in force only for the duration of the lead-in period but, for the avoidance

of doubt, sections 56, 56A, 60, 64 and 65 apply to that licence.

- (4) Until the Commission issues the special employee's licence, the person is taken to be the holder of a provisional special employee's licence under Division 3 of Part 4 authorising the person to exercise or perform the function.
- (5) Expressions that are defined in Division 3 of Part 4 and used in this section have the same meaning in this section as they have in that Division.

76ZDF. Certain employees to be issued with technician's licence

- (1) This section applies to a person who is employed by a betting exchange operator during the lead-in period to exercise or perform a function of a technician (referred to in this section as "the function") for the operator's Tasmanian betting exchange operations.
- (2) The Commission, as soon as practicable after the start of the lead-in period or, if applicable, after the person is employed, is to issue the person with a technician's licence under Division 4 of Part 4 authorising the person to exercise or perform the function.
- (3) The technician's licence so issued remains in force only until the end of the lead-in period but, for the avoidance of

doubt, sections 56, 56A, 60, 64 and 65 apply, with any necessary modification, to that licence.

- (4) Until the Commission issues the technician's licence, the person is taken to be the holder of a provisional technician's licence under Division 4 of Part 4 authorising the person to exercise or perform the function.
- (5) Expressions that are defined in Division 4 of Part 4 and used in this section have the same meaning in this section as they have in that Division.

Subdivision 4 – Miscellaneous

76ZDG. Offshore computer equipment

- (1) A betting exchange operator may, with the written approval of the Commission, use offshore computer equipment for Tasmanian betting exchange operations.
- (2) A betting exchange operator who uses offshore computer equipment for Tasmanian betting exchange operations pursuant to a permission under subsection (1) must comply with such instructions as the Commission may from time to time give the betting exchange operator regarding that computer equipment and its use.

Penalty: Fine not exceeding 10 000 penalty units.

- (3) In this section –

“computer equipment” includes a class of computer equipment;

“offshore computer equipment” means a computer, computer server or other computer equipment located outside Tasmania.

76ZDH. Self-exclusion from brokered wagering

- (1) A registered player may, by written notice to a betting exchange operator –
 - (a) bar himself or herself from wagering with the betting exchange operator; or
 - (b) revoke such a bar.
- (2) A notice under subsection (1)(a) is called a “betting exchange self-exclusion notice” and a notice under subsection (1)(b) is called a “betting exchange self-exclusion revocation notice”.
- (3) A betting exchange self-exclusion notice or betting exchange self-exclusion revocation notice takes effect when it is received by the betting exchange operator.
- (4) As soon as practicable (and in any event no later than 3 days) after receiving a betting exchange self-exclusion notice, a betting exchange operator must –

- (a) remove the name of the person who has given the notice from the register kept under section 76ZU; and
- (b) ensure that all persons employed by the operator in connection with Tasmanian betting exchange operations know of the notice; and
- (c) give written notice or a copy of the notice to the Commission.

Penalty: Fine not exceeding 10 000 penalty units.

- (5) A betting exchange operator that receives a betting exchange self-exclusion notice must ensure that, as soon as practicable after the determination of any outstanding wagers of the excluded person and the deduction of authorised commission and statutory charges –
 - (a) the excluded person's betting exchange wagering account is closed; and
 - (b) any wagering funds standing to the credit of that account immediately before its closure are remitted to the excluded person.

Penalty: Fine not exceeding 10 000 penalty units.

- (6) As soon as practicable after receiving a betting exchange self-exclusion

revocation notice, the betting exchange operator is to –

- (a) restore the name of the person who has given the notice to the register kept under section 76ZU; and
 - (b) ensure that all persons employed by the operator in connection with Tasmanian betting exchange operations know of the notice; and
 - (c) give written notice or a copy of the notice to the Commission.
- (7) Despite any other provision of this section, a betting exchange self-exclusion notice is not capable of being revoked within 6 months after it is given.
- (8) For the avoidance of doubt, a reference in this section to a written notice includes a reference to an email, fax or other form of electronic notice.

76ZDI. Third-party exclusion from brokered wagering

- (1) A person who has a close personal interest in the welfare of another person who wagers through betting exchanges may, in an approved form, apply to the Commission for an order to prohibit that other person from engaging in that kind of wagering.

- (2) The Commission must, on receipt of the application, provide the affected person with a written notice –
 - (a) informing the affected person of the making of the application and the reasons for it; and
 - (b) inviting the affected person to make representations to the Commission about the application within the reasonable time specified in the notice.
- (3) After considering representations made by the applicant and the affected person, the Commission must –
 - (a) if it is satisfied that it is in the public interest and the interests of the affected person to do so, make an order (called a “betting exchange exclusion order”) prohibiting the affected person from wagering through betting exchanges; or
 - (b) if it is not so satisfied, refuse the application.
- (4) The Commission must, if the application is refused, notify the applicant and the affected person in writing of that refusal and the reasons for it.
- (5) The Commission must, on making a betting exchange exclusion order, provide a copy of it to –

- (a) the applicant; and
 - (b) the affected person; and
 - (c) each betting exchange operator.
- (6) As soon as practicable (and in any event no later than 3 days) after receiving a copy of a betting exchange exclusion order from the Commission, a betting exchange operator must –
- (a) ensure that all persons employed by the operator in connection with Tasmanian betting exchange operations know of the order; and
 - (b) remove the affected person's name from the register kept under section 76ZU.

Penalty: Fine not exceeding 10 000 penalty units.

- (7) A betting exchange operator that receives a copy of a betting exchange exclusion order from the Commission must ensure that, as soon as practicable after the determination of any outstanding wagers of the affected person and the deduction of authorised commission and statutory charges –
- (a) the affected person's betting exchange wagering account is closed; and
 - (b) any wagering funds standing to the credit of that account

immediately before its closure are remitted to the affected person.

Penalty: Fine not exceeding 10 000 penalty units.

(8) A betting exchange exclusion order has effect until it is revoked under section 76ZDJ.

(9) In this section –

“**affected person**” means, according to the context, the person in respect of whom –

- (a) an application for a betting exchange exclusion order is made; or
- (b) a betting exchange exclusion order is made and in force.

76ZDJ. Revocation of betting exchange exclusion orders

- (1) This section applies if a betting exchange exclusion order is in force.
- (2) The person who applied for the order or the affected person may, in an approved form, apply to the Commission to have it revoked.
- (3) The Commission must, on receipt of the application, provide the respondent with a written notice –

- (a) informing the respondent of the making of the application and the reasons for it; and
 - (b) inviting the respondent to make representations to the Commission about the application within the reasonable time specified in the notice.
- (4) After considering representations made by the applicant and the respondent, the Commission must –
 - (a) if it is satisfied that it is in the public interest and the interests of the affected person to do so, make an order (called a “revocation order”) revoking the betting exchange exclusion order; or
 - (b) if it is not so satisfied, refuse the application.
- (5) The Commission must, if the application is refused, notify the applicant and respondent in writing of that refusal and the reasons for it.
- (6) The Commission must, on making a revocation order, provide a copy of it to –
 - (a) the applicant; and
 - (b) the respondent; and
 - (c) each betting exchange operator.
- (7) In this section –

“affected person” means the person in respect of whom a betting exchange exclusion order is in force;

“respondent”, in relation to an application for revocation under subsection (2), means whichever of the following persons was not the applicant:

- (a) the affected person;
- (b) the person who applied for the relevant betting exchange exclusion order.

76ZDK. Register of persons excluded from betting exchange wagering

A betting exchange operator must –

- (a) keep an up-to-date register of excluded persons; and
- (b) ensure that the Commission is able to inspect that register electronically at any time.

Penalty: Fine not exceeding 10 000 penalty units.

Subdivision 5 – Offences

76ZDL. Restrictions on brokered wagering

A betting exchange operator must not –

- (a) broker wagering by or between persons who are not registered players; or
- (b) cause or allow persons who are not registered players to engage in wagering through a betting exchange operated by the betting exchange operator; or
- (c) solicit, by direct advertising, direct inducements or other direct means, excluded persons to engage in wagering through a betting exchange.

Penalty: In the case of –

- (a) a first offence, a fine not exceeding 10 000 penalty units; and
- (b) a subsequent offence, a fine not exceeding 50 000 penalty units.

76ZDM. Restrictions on wagering by interested persons

- (1) A person must not wager through a betting exchange if the person is a direct participant in the brokered wagering event to which the wager relates.

Penalty: Fine not exceeding 10 000 penalty units or imprisonment for a term not exceeding 4 years, or both.

- (2) A person who has an interest in the outcome of a brokered wagering event must not, through a betting exchange, place or accept a wager of a kind that could reasonably be taken to constitute an inducement for –
- (a) a human competitor in the event –
 - (i) to withdraw from, become disqualified for or fail to participate in the event; or
 - (ii) not to participate in the event to the best of the human competitor's ability; or
 - (iii) to interfere with or jeopardise, contrary to the rules of the event, the performance of other human competitors, or any non-human competitors, in the event; or
 - (iv) to commit an offence against section 165; or
 - (b) an official in the event –
 - (i) not to officiate in the event impartially; or
 - (ii) to commit an offence against section 165.

Penalty: Fine not exceeding 10 000 penalty units or imprisonment for

a term not exceeding 4 years, or both.

(3) The owner of a horse or greyhound must not wager through a betting exchange that, in a race or event in which the horse or greyhound is competing or entered to compete, the horse or greyhound will fail to –

(a) win first place; or

(b) be placed second; or

(c) be placed third; or

(d) win first place or be placed second or third; or

(e) win first place or be placed second; or

(f) win first place or be placed third; or

(g) be placed second or third.

Penalty: Fine not exceeding 10 000 penalty units or imprisonment for a term not exceeding 4 years, or both.

(4) A betting exchange operator must inform the Commission immediately if the operator knows or reasonably suspects that a person has placed or accepted, or is trying to place or accept, a wager of the kind referred to in subsection (1), (2) or (3) through the operator's betting exchange.

Penalty: Fine not exceeding 10 000
penalty units.

- (5) For the purposes of this section, a person is taken to have an interest in the outcome of a brokered wagering event if the person is –
- (a) a direct or indirect participant in the event; or
 - (b) an associate of a direct or indirect participant in the event.
- (6) For the purposes of this section, a person is another person's associate if the first-mentioned person –
- (a) holds or will hold any relevant financial interest, or is or will be entitled to exercise any relevant power (whether in right of the first-mentioned person or on behalf of any other person) in a business of the other person, and by virtue of that interest or power, is able or will be able to exercise a significant influence over or with respect to the management or operation of that business; or
 - (b) holds or will hold any relevant position (whether in right of the first-mentioned person or on behalf of any other person) in a business of the other person; or
 - (c) is a relative of the other person.

(7) In this section –

“competitor” includes, in the case of a horse race, a jockey or driver of a horse competing or entered to compete in the race;

“direct participant”, in a brokered wagering event, means –

- (a) in the case of a horse race, a licensed person who trains, rides, drives or performs another function in respect of a horse in the race; or
- (b) in the case of a greyhound race, a licensed person who, other than as an owner, trains or performs another function in respect of a greyhound in the race; or
- (c) in any other case, a person who –
 - (i) competes in the event; or
 - (ii) is entitled, under the rules of the event, to give direct technical or logistical support to a person competing in the

event while it is
underway;

Example 1 The members of pit crews in a motor race give direct technical and logistical support to the drivers competing in that race.

“indirect participant”, in a brokered wagering event, means a person who, though not a direct participant in the event, is capable of influencing or deciding the outcome of the event or the outcome of a contingency relating to that event;

Example 2 A team doctor or physiotherapist, a sportsground curator, an official, a member of a tribunal that hears protests or appeals concerning rules, disqualifications or results.

“licensed” means licensed or registered under –

- (a) the *Rules of Racing* within the meaning of the *Racing Regulation Act 2004*; or
- (b) rules in force in another State, or in a Territory, that are equivalent or substantially equivalent to the rules referred to in paragraph (a);

“official” includes marshal, scorer, steward, time-keeper and umpire;

“partner” means the person with whom a person is in a personal relationship within the meaning of the *Relationships Act 2003*;

“relative” means spouse, partner, parent, child or sibling (whether of the full or half blood);

“relevant financial interest”, in relation to a business, means –

- (a) any share in the capital of the business; or
- (b) any entitlement to receive any income derived from the business;

“relevant position”, in relation to a business, means the position of director, manager or other executive position or secretary, however that position is designated in that business;

“relevant power” means any power, whether exercisable by voting or otherwise and whether exercisable alone or in association with others –

- (a) to participate in a directorial, managerial or executive decision; or
- (b) to elect or appoint any person to any relevant position.

- (8) The examples in subsection (7) are a part of the law.

7. Section 76ZK amended (Self-limit on wagers by player)

Section 76ZK of the Principal Act is amended as follows:

- (a) by omitting subsections (1) and (2) and substituting the following subsection:
- (1) A registered player may, by written notice to a licensed provider, set an amount in dollars to be the player's net loss limit for wagers made with or through the provider in respect of a calendar month nominated by the player.
- (b) by omitting from subsection (3) "limit" and substituting "net loss limit";
- (c) by omitting from subsection (4) "limit" first occurring and substituting "net loss limit";
- (d) by omitting subsection (5) and substituting the following subsection:
- (5) A notice setting, amending or revoking a net loss limit under this section takes effect when it is received by the licensed provider.
- (e) by inserting the following subsection after subsection (6):

- (7) For the avoidance of doubt, a reference in this section to a written notice includes a reference to an email, fax or electronic notice.

8. Sections 76ZQA and 76ZQB inserted

After section 76ZQ of the Principal Act, the following sections are inserted in Division 8:

76ZQA. Freezing wagering funds held by licensed provider

- (1) This section applies where a licensed provider holds any wagering funds of a registered player.
- (2) The Commission, by notice in writing, may instruct the licensed provider to freeze some or all of the wagering funds for such period as the Commission specifies in the notice.
- (3) The licensed provider must comply with an instruction under subsection (2).

Penalty: Fine not exceeding 10 000 penalty units.

- (4) The licensed provider may, for such period as it thinks fit, freeze some or all of the wagering funds if the licensed provider is satisfied that there are –
 - (a) reasonable grounds for suspecting that the funds, or any of them,

have been acquired in a manner that contravenes this Act; or

(b) other reasonable grounds that justify freezing the funds.

(5) On freezing some or all of the wagering funds pursuant to subsection (4), the licensed provider must –

(a) give the Commission a notice in writing within 24 hours –

(i) stating that the funds have been frozen; and

(ii) identifying the registered player and the funds; and

(iii) stating why the funds have been frozen; and

(b) give the Commission such further particulars about the matter as the Commission, by notice in writing, requires.

Penalty: Fine not exceeding 10 000 penalty units.

(6) Following the receipt of the notice or further particulars under subsection (5), the Commission may give the licensed provider such written instructions about the frozen wagering funds as the Commission thinks fit and, without limiting the generality of this, may instruct the licensed provider to do any one or more of the following:

- (a) unfreeze some or all of the funds and allow the registered player to use them for wagering;
 - (b) unfreeze some or all of the funds and remit them to the registered player;
 - (c) decrease or increase the period for which the funds are to be frozen;
 - (d) deregister the player, either permanently or for a specified period, under section 76ZU;
 - (e) have the registered player's account or wagering history, or both, independently audited.
- (7) The licensed provider must comply with an instruction under subsection (6).

Penalty: Fine not exceeding 10 000 penalty units.

- (8) In this section –

“**freeze**”, funds, means to hold the funds and not disburse them in any way.

76ZQB. Freezing wagering funds held by third party

- (1) This section applies where any wagering funds of a licensed provider's registered player are held by an agent of the licensed provider (the agent being referred to in this section as “the fundholder”).

- (2) The Commission, by notice in writing, may instruct the fundholder to freeze some or all of the wagering funds for such period as the Commission specifies in the notice.
- (3) The fundholder must comply with an instruction under subsection (2).

Penalty: Fine not exceeding 10 000 penalty units.

- (4) The Commission is to give a copy of an instruction under subsection (2) to the responsible licensed provider.
- (5) The fundholder may, for such period as it thinks fit, freeze some or all of the wagering funds if the fundholder is satisfied that there are –
 - (a) reasonable grounds for suspecting that the funds, or any of them, have been acquired in a manner that contravenes this Act; or
 - (b) other reasonable grounds that justify freezing the funds.
- (6) On freezing some or all of the wagering funds pursuant to subsection (5), the fundholder must –
 - (a) give the Commission and the responsible licensed provider a notice in writing within 24 hours –
 - (i) stating that the funds have been frozen; and

- (ii) identifying the registered player and the funds; and
 - (iii) stating why the funds have been frozen; and
- (b) give the Commission such further particulars about the matter as the Commission, by notice in writing, requires.

Penalty: Fine not exceeding 10 000 penalty units.

- (7) Following the receipt of the notice or further particulars under subsection (6), the Commission may give the fundholder such written instructions about the frozen wagering funds as the Commission thinks fit and, without limiting the generality of this, may instruct the fundholder to do any one or more of the following:
- (a) unfreeze some or all of the funds and allow the registered player to use them for wagering;
 - (b) unfreeze some or all of the funds and remit them to the registered player;
 - (c) decrease or increase the period for which the funds are to be frozen;
 - (d) have the registered player's account or wagering history, or both, independently audited.

- (8) The Commission is to give a copy of any instructions under subsection (7) to the responsible licensed provider.
- (9) Also, the Commission, if it considers it appropriate to do so in the circumstances, may instruct the licensed provider to deregister the player, either permanently or for a specified period, under section 76ZU.
- (10) If the fundholder commits an offence against this section, the responsible licensed provider is also guilty of the offence and liable to the same penalty for the offence unless the responsible licensed provider establishes that –
- (a) the act or omission constituting the offence took place without the licensed provider’s knowledge or consent; or
 - (b) the licensed provider used all due diligence to prevent that act or omission by the fundholder.
- (11) Subsection (10) has effect whether or not the fundholder is charged with or convicted of the offence against this section.
- (12) In this section –
- “**freeze**” has the same meaning as in section 76ZQA;
 - “**responsible licensed provider**” means the licensed provider for

whom, as agent, a fundholder holds any wagering funds of a registered player.

9. Section 76ZT amended (Power to withhold prize)

Section 76ZT of the Principal Act is amended as follows:

(a) by omitting subsection (1) and substituting the following subsection:

(1) A licensed provider may withhold a prize or payment in a gaming activity if –

(a) the licensed provider has reasonable grounds for believing that the result of the gaming activity has been affected by an illegal activity or malfunction of equipment; or

(b) the outcome of the gaming activity or relevant wagering event is disputed.

(b) by inserting in subsection (2) “or payment” after “prize”;

(c) by inserting in subsection (2)(b) “or, as the case may be, the dispute remains unresolved” after “likely”;

(d) by inserting in subsection (3) “or payment” after “prize”;

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- (e) by inserting in subsection (4)(a) “or payment” after “prize”;
- (f) by inserting in subsection (4)(b) “or payment” after “prize”.

10. Section 76ZU amended (Keeping register of players)

Section 76ZU of the Principal Act is amended as follows:

- (a) by inserting the following subsection after subsection (1):

(1A) A licensed provider must ensure that the Commission is able to inspect the register of players electronically at any time.

Penalty: Fine not exceeding 100 penalty units.

- (b) by inserting the following paragraph after paragraph (c) in subsection (5):

(ca) on written instructions of the Commission authorised to be given under this Act; or

11. Section 76ZZ repealed

Section 76ZZ of the Principal Act is repealed.

12. Section 76ZZAA amended (Trading accounts)

Section 76ZZAA of the Principal Act is amended as follows:

- (a) by omitting subsection (1) and substituting the following subsection:

(1) In this section –

“trading account” means an account that –

- (a) a player or other person establishes with the holder of a Tasmanian gaming licence endorsed with one or more of the following:

(i) a betting exchange endorsement;

(ii) a fixed odds wagering endorsement;

(iii) a sports betting endorsement; and

- (b) may be operated so as to have credit and debit balances.

- (b) by omitting from subsection (6) “sports betting endorsement or a fixed odds wagering endorsement, or both,” and substituting “betting exchange endorsement, fixed odds wagering endorsement or sports betting

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endorsement (or any combination of those endorsements)".

13. Section 76ZZF amended (Approval of games and rules)

Section 76ZZF of the Principal Act is amended by omitting subsection (8).

14. Section 112A amended (Interpretation of Division)

Section 112A of the Principal Act is amended as follows:

(a) by omitting "In" and substituting "(1) In";

(b) by inserting the following subsection:

(2) This Division does not apply to or in respect of betting exchanges or brokered wagering.

15. Section 112T amended (Disciplinary action)

Section 112T(1) of the Principal Act is amended by omitting "10 000 penalty units" from paragraph (f)(i) of the definition of "disciplinary action" and substituting "100 000 penalty units".

16. Section 141 amended (Records to be kept on the premises)

Section 141 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “A” and substituting “Subject to subsection (1A), a”;
- (b) by inserting the following subsections after subsection (1):

(1A) A betting exchange operator may, with the written approval of the Commission, keep all or any of the records relating to the conduct of brokered wagering by the operator at a place other than the approved location of the operator.

(1B) The Commission’s approval under subsection (1A) may be granted with or without conditions.

(1C) A betting exchange operator that, pursuant to an approval under subsection (1A), keeps a record relating to the conduct of brokered wagering by the operator at a place other than the approved location of the operator must –

- (a) ensure that that record can be accessed from the approved location of the operator; and

(b) at the written request of the Commission, produce that record to the Commission within such time as the Commission, by the request, specifies; and

(c) comply with the conditions, if any, of the approval.

Penalty: Fine not exceeding 100 penalty units and, in the case of a continuing offence, a further fine not exceeding 10 penalty units for each day during which the offence continues.

17. Section 148A amended (Annual Tasmanian gaming licence fee)

Section 148A(2) of the Principal Act is amended as follows:

(a) by inserting the following paragraph after paragraph (d):

(da) if the Tasmanian gaming licence is endorsed with a betting exchange endorsement – 350 000 fee units; or

(b) by omitting from paragraph (f) “paragraphs (a), (b), (c), (d) and (e)” and

substituting “paragraphs (a), (b), (c), (d), (da) and (e)”.

18. Section 150A amended (Taxation in respect of Tasmanian gaming licence)

Section 150A of the Principal Act is amended by inserting after subsection (7) the following subsection:

(7A) The tax payable in relation to a month and the gaming business conducted in respect of a betting exchange endorsement is as follows:

- (a) 10% of the monthly betting exchange commission that the licensed provider is entitled to in respect of brokered wagering events held outside Australia;
- (b) 15% of the monthly betting exchange commission that the licensed provider is entitled to in respect of brokered wagering events held in Australia.

19. Section 150AB amended (Set off for goods and services tax in respect of Tasmanian gaming licence)

Section 150AB(1) of the Principal Act is amended by inserting after paragraph (a) the following paragraph:

- (ab) a betting exchange endorsement; and

20. Section 150AC inserted

After section 150AB of the Principal Act, the following section is inserted in Division 2:

150AC. Betting exchange product levy

- (1) A betting exchange operator must, from the total amount of betting exchange commission that the operator is entitled to in respect of Australian racing in each month, pay to the Treasurer a product levy.
- (2) The product levy is a sum equivalent to 20% of that total amount of commission.
- (3) The product levy must be paid to the Treasurer on or before the 7th day of the month immediately following the month to which it relates.
- (4) The product levy is in addition to any other payment that the betting exchange operator is required to make to the Treasurer under this Act.
- (5) In this section –

“racing” has the same meaning as in
the *Racing Regulation Act 2004*.

21. Section 151 amended (Community support levy)

Section 151 of the Principal Act is amended as follows:

- (a) by inserting the following subsection after subsection (3):

- (3A) Without further appropriation than this section, the Treasurer must, to the payments made under subsection (1) in respect of a month, add an amount equivalent to 4% of the Tasmanian commission for the same month.
- (b) by omitting from subsection (4) “the community” and substituting “the total community”;
- (c) by inserting the following subsection after subsection (4):

(5) In this section –

“Tasmanian commission”
means that part of the commission referred to in section 150A(7A)(b) as is attributable to the brokered wagers of Tasmanian registered players;

“total community support levy” means the payments made under subsection (1) and the amounts added under subsection (3A).

22. Section 152 inserted

After section 151 of the Principal Act, the following section is inserted in Division 2:

152. Contributions to Tasmanian racing industry

- (1) Without further appropriation than this section, the Treasurer must, in each financial year, pay from the Consolidated Fund a prescribed amount to TOTE Tasmania for the purposes of supporting the Tasmanian racing industry.
- (2) For the purposes of subsection (1), the prescribed amount is the aggregate of the following:
 - (a) two-thirds of all tax that is payable to the Treasurer under section 150A(7A)(b) in respect of the preceding financial year, less such part of that amount as is added to the community support levy under section 151(3A);
 - (b) one-half of all tax that is payable to the Treasurer under section 150A(7A)(a) in respect of the preceding financial year;
 - (c) 100% of the total amount of product levy that is payable to the Treasurer by betting exchange operators in respect of the preceding financial year under section 150AC;
 - (d) 100% of the guarantee payments, if any, in respect of the preceding financial year.
- (3) In this section –

“guarantee payments” means special payments prescribed pursuant to the regulation-making power in section 174(2A);

“preceding financial year”, in respect of a racing industry contribution under subsection (1), means the financial year immediately preceding the financial year in which the contribution is made.

23. Section 165 amended (Inducements, cheating, &c.)

Section 165 of the Principal Act is amended as follows:

(a) by omitting from the penalty under subsection (3) “1 000 penalty units” and substituting “10 000 penalty units”;

(b) by inserting the following subsections after subsection (3):

(4) A person must not –

(a) cheat in a gaming activity;
or

(b) do anything for the purposes of enabling or assisting another person to cheat in a gaming activity.

Penalty: Fine not exceeding 10 000 penalty units or imprisonment for a term

not exceeding 4 years, or
both.

(5) For the purposes of subsection (4), it is immaterial whether a person who cheats in a gaming activity –

(a) improves the person's chances of winning anything; or

(b) wins anything.

(6) Without prejudice to the generality of subsection (4), cheating in a gaming activity may, in particular, consist of actual or attempted deception or interference in connection with –

(a) the process by which the gaming activity is conducted; or

(b) a real or simulated game, race or other event or process to which the gaming activity relates.

24. Section 174 amended (Regulations)

Section 174 of the Principal Act is amended by inserting after subsection (2) the following subsection:

(2A) Regulations under this section may also –

- (a) require a betting exchange operator to make, in respect of such periods as are specified in the regulations, special payments to the Treasurer so as to guarantee that the Tasmanian racing industry's expected levels of TOTE Tasmania funding during those periods are not diminished by the impact of the operator's Tasmanian betting exchange operations; and
- (b) provide for the calculation and recovery of those special payments; and
- (c) provide for the granting of rebates in connection with those special payments; and
- (d) provide for incidental and ancillary matters.

**PART 3 – TOTE TASMANIA (RACING REGULATION)
ACT 2004 AMENDED**

25. Principal Act

In this Part, the *TOTE Tasmania (Racing Regulation) Act 2004** is referred to as the Principal Act.

26. Section 11A inserted

After section 11 of the Principal Act, the following section is inserted in Division 3:

11A. Treasurer's contributions

- (1) TOTE Tasmania must apply each payment that it receives under section 152 of the *Gaming Control Act 1993* to the Tasmanian racing industry for the conduct of race meetings (including prize money) and the administration, maintenance and improvement of horse racing and greyhound racing.
- (2) Subsections (4) and (5) of section 10 have the same application to a payment referred to in subsection (1) as they have to a product fee under that section.

*No. 63 of 2004