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Gambling and Racing Legislation Amendment (Sports Betting) Act 2007†

No. 18 of 2007

[Assented to 29 May 2007]

The Parliament of Victoria enacts:

PART 1—PRELIMINARY

1 Purpose

The purpose of this Act is to amend the Gambling Regulation Act 2003 and the Racing Act 1958 to make new provision for betting on sporting and other events.

2 Commencement

(1) Subject to subsection (2), this Act comes into operation on a day to be proclaimed.
Gambling and Racing Legislation Amendment (Sports Betting) Act 2007
No. 18 of 2007

Part 1—Preliminary

s. 2

(2) If this Act does not come into operation before 1 July 2008, it comes into operation on that day.
PART 2—GAMBLING REGULATION ACT 2003

3 New Part 5 of Chapter 4 substituted

For Part 5 of Chapter 4 of the Gambling Regulation Act 2003 substitute—

"PART 5—APPROVED BETTING COMPETITIONS AND SPORTS BETTING

Division 1—Preliminary

4.5.1 Definitions

In this Part—

approved betting event means an event, class of event or part of a class of event approved for betting under section 4.5.6(1)(a);

sports betting event means an event, class of event or part of a class of event designated under section 4.5.9 as a sports betting event;

sports betting provider means a person who, in Victoria or elsewhere, provides a service that allows a person to place a bet on a sports betting event;

sports controlling body means an organisation approved under section 4.5.15 as the sports controlling body for a sports betting event.
4.5.2 Events and betting competitions that cannot be approved under this Part

An approval under this Part cannot be given for an event or betting competition—

(a) that is played on a gaming machine; or

(b) that is a club keno game; or

(c) that is an interactive game.

Division 2—Approved betting competitions on horse, harness and greyhound racing

4.5.3 Approval of betting competitions on horse, harness and greyhound races

(1) The Minister may approve a betting competition on an event or contingency, or a class of event or contingency, of or relating to a horse race, harness race or greyhound race.

(2) An approval is to be given by instrument.

(3) The Minister must not approve a betting competition that—

(a) is conducted on a totalisator; or

(b) in his or her opinion, is offensive or contrary to the public interest.

(4) The Minister may impose any conditions he or she thinks fit on the approval of a betting competition at the time of giving the approval or at any later time.

(5) An approval—

(a) takes effect on the day notice of it is published under section 4.5.4(a) or on the later day specified in the notice; and

(b) remains in force until revoked by the Minister.
(6) A condition imposed under subsection (4) takes effect on the day notice of it is published under section 4.5.4(b) or on the later day specified in the notice.

4.5.4 Notice of approval

The Minister must cause notice to be published in the Government Gazette of—

(a) an approval under this Division; and

(b) the imposition of a condition on an approval; and

(c) the variation or revocation of an approval.

4.5.5 Variation and revocation of approval

(1) At any time the Minister may, by instrument—

(a) vary an approval (including a variation or revocation of a condition to which the approval is subject); or

(b) revoke an approval for any reasonable cause stated by the Minister in the instrument of revocation.

(2) A variation or revocation takes effect on the day notice of it is published under section 4.5.4(c) or on the later day specified in the notice.

Division 3—Approval of other events for betting purposes

4.5.6 Approval of events for betting purposes

(1) The Commission may, by instrument—

(a) approve a particular event or class of event for betting purposes; and
(b) approve a betting competition on that event or class.

(2) The approval of a betting competition under this section must specify whether it is a competition with fixed odds or a competition conducted on a totalisator.

(3) The Commission may impose any conditions it thinks fit on an approval at the time of giving the approval or at any later time.

(4) An approval—
   (a) takes effect on the day notice of it is published under section 4.5.10(1)(a) or on the later day specified in the notice; and
   (b) remains in force until revoked by the Commission.

(5) A condition imposed under subsection (3) takes effect on the day notice of it is published under section 4.5.10(1)(b) or on the later day specified in the notice.

4.5.7 What kinds of events can be approved?

(1) The Commission may approve events, or classes of events, of any kind for betting purposes, whether those events are held wholly or partly within or outside Victoria.

(2) However, the Commission cannot approve an event, class of event or betting competition that is, or is related to, a horse race, harness race or greyhound race.

Note
The Commission also cannot approve certain other kinds of event—see section 4.5.2.
4.5.8 What must Commission consider in approving events?

(1) In determining whether to approve an event or class of event for betting purposes, the Commission must have regard to—

(a) whether the event or class is exposed to unmanageable integrity risks; and

(b) whether the event or class is administered by an organisation that is capable of administering and enforcing rules or codes of conduct designed to ensure the integrity of the event or class; and

(c) whether betting on the event or class is—

(i) offensive; or

(ii) contrary to the public interest; and

(d) except in the case of a sporting event or class of sporting event, whether the approval would represent an unreasonable extension of the scope of gambling in Victoria.

(2) The Commission may have regard to any other matter in determining whether to approve an event, class of event or betting competition.

4.5.9 Designation of sports betting events

The Commission must—

(a) determine whether or not an approved betting event is a sports betting event for the purposes of this Part; and

(b) designate each sports betting event as such in the instrument of approval.
4.5.10 Notice and publication requirements

(1) The Commission must cause notice to be published in the Government Gazette of—

(a) an approval under this Division; and
(b) the imposition of a condition on an approval; and
(c) the variation or revocation of an approval.

(2) The notice must state whether the approved betting event is a sports betting event.

(3) The Commission must cause to be made available on its website a list of all approved betting events and betting competitions under this Division that indicates which of the approved betting events are sports betting events.

4.5.11 Variation and revocation of approval

(1) At any time the Commission may, by instrument—

(a) vary an approval (including a variation or revocation of a condition to which the approval is subject); or
(b) revoke an approval for any reasonable cause stated by the Commission in the instrument of revocation.

(2) A variation or revocation takes effect on the day notice of it is published under section 4.5.10(1)(c) or on the later day specified in the notice.
Division 4—Approval of sports controlling bodies for sports betting purposes

4.5.12 Application for approval

(1) An organisation may apply to the Commission for approval as the sports controlling body for a sports betting event.

(2) An application for approval must—

(a) be in the form approved by the Commission; and

(b) specify the sports betting event for which the applicant seeks approval; and

(c) be accompanied by the prescribed fee (if any); and

(d) contain or be accompanied by any additional information the Commission requires.

(3) Within 14 days after making an application, the applicant must cause to be published in a newspaper circulating generally throughout Australia, or newspapers circulating generally in each State and Territory of Australia, a notice containing—

(a) a statement that any person may object to the application by giving notice in writing to the Commission within 28 days after the date of publication stating the grounds for objection; and

(b) any other information required by the Commission.
(4) If a requirement made by this section is not complied with, the Commission may refuse to consider the application.

Note
Division 1 of Part 4 of Chapter 10 provides for the investigation of an application for approval under this Division.

4.5.13 Objections
A person may object to an application for approval under this Division by giving notice in writing to the Commission within the time specified in section 4.5.12(3)(a) stating the grounds for objection.

4.5.14 Matters to be considered in determining applications
(1) In determining whether to approve an applicant as the sports controlling body for a sports betting event, the Commission must have regard to—

(a) whether the applicant—

(i) has control of the event; or

(ii) organises or administers the event; and

(b) whether the applicant has adequate policies, rules, codes of conduct or other mechanisms designed to ensure the integrity of the event; and

(c) whether the applicant supports compliance with relevant international codes and conventions applicable to the event that relate to integrity in sport; and
(d) whether the applicant has the expertise, resources and authority necessary to administer, monitor and enforce the integrity systems; and

(e) whether the applicant has clear policies on the provision of information that may be relevant to the betting market; and

(f) whether the applicant has clear processes for reporting the results of the event and hearing appeals and protests regarding those results; and

(g) whether the applicant has clear policies on the sharing of information with sports betting providers for the purpose of investigating suspicious betting activity; and

(h) whether the applicant is the most appropriate body to be approved as the approved sports controlling body for the event; and

(i) whether the approval of the applicant is in the public interest.

(2) The Commission must also have regard to every objection made in accordance with section 4.5.13.

(3) The Commission may have regard to any other matter in determining whether to approve an applicant as the sports controlling body for a sports betting event.
4.5.15 Determination of applications and duration of approval

(1) The Commission must determine an application for approval by either granting or refusing the application and must notify the applicant in writing of its decision.

(2) If the Commission refuses an application, it must include reasons for the refusal in the written notification.

(3) The Commission may impose any conditions it thinks fit on an approval at the time of granting the approval or at any later time.

(4) An approval—

(a) takes effect on the day specified by the Commission in the written notification; and

(b) remains in force until revoked by the Commission under section 4.5.17 or surrendered under section 4.5.18.

4.5.16 Notice and publication requirements

(1) The Commission must cause notice to be published in the Government Gazette, as soon as practicable, of—

(a) the grant of an approval under this Division; and

(b) the imposition of a condition on an approval; and

(c) the variation or revocation of an approval.

(2) Failure to publish a notice under subsection (1) does not affect the validity of the approval, condition, variation or revocation.
(3) The Commission must cause to be made available on its website a list of all sports controlling bodies.

4.5.17 Variation and revocation of approval

(1) At any time the Commission, by written notice to a sports controlling body, may—

(a) vary the approval of the body (including a variation or revocation of a condition to which the approval is subject); or

(b) revoke the approval of the body for any reasonable cause stated by the Commission in the notice of revocation.

(2) A variation or revocation takes effect on the day specified by the Commission in the notice.

4.5.18 Surrender of approval

(1) A sports controlling body may surrender its approval by giving written notice to the Commission.

(2) The surrender takes effect—

(a) on the day that the Commission receives the notice; or

(b) on another day determined by the Commission (which may be a day that occurred before the notice was received).
4.5.19 Change in situation of sports controlling body

(1) Whenever a change of a kind specified by the Commission in writing given to a sports controlling body takes place in the situation existing in relation to that body, the body must notify the Commission in writing of the change within 14 days after it takes place.

Penalty: 60 penalty units.

(2) A function of the Commission under this section may be performed by any commissioner.

4.5.20 Tribunal reviews

(1) A person whose interests are affected by the relevant decision may apply to the Tribunal for review of a decision of the Commission—

(a) to grant or refuse an application for approval as the sports controlling body for a sports betting event; or

(b) to impose a condition on an approval; or

(c) to vary or revoke an approval.

(2) An application for review must be made within 28 days after the latest of—

(a) the day on which the decision was made;

(b) if, under the **Victorian Civil and Administrative Tribunal Act 1998**, the person requests a statement of reasons for the decision, the day on which the statement of reasons is given to the person or the person is informed
under section 46(5) of that Act that a statement of reasons will not be given;

c) if, under section 10.1.24, the person requests a statement of reasons for the decision, the day on which the statement of reasons is given to the person or the person is informed under section 10.1.23(6) that a statement of reasons will not be given.

Division 5—Requirements on sports betting providers

4.5.21 What is offering a betting service?

For the purposes of this Division, a sports betting provider offers a betting service on a sports betting event if the provider—

(a) accepts, offers to accept, or invites a person to place, a bet; or

(b) facilitates the placing of a bet—
on any contingency relating to the sports betting event or any event forming part of it.

4.5.22 Prohibition on offering betting service without agreement or determination

(1) A sports betting provider must not, in Victoria or elsewhere, offer a betting service on a sports betting event unless—

(a) an agreement is in effect under section 4.5.23 between the sports controlling body for that event and the sports betting provider; or
(b) a determination of the Commission is in effect under section 4.5.26 for the sports betting provider to offer a betting service on the event.

Penalty: 60 penalty units.

(2) Subsection (1) does not apply—

(a) to a sports betting event held wholly outside Victoria; or

(b) at any time while an application by the sports betting provider for a determination under section 4.5.26 in respect of the event is before the Commission; or

(c) if there is no sports controlling body for the event; or

(d) during the period ending 6 months after the day on which the approval of a sports controlling body for the event took effect.

4.5.23 Agreement of sports controlling body

(1) A sports controlling body for a sports betting event may make an agreement with a sports betting provider for the sports betting provider to offer a betting service on the event.

(2) An agreement must—

(a) provide for the sharing of information between the parties for the purposes of protecting and supporting integrity in sports and sports betting; and
(b) state—

(i) whether or not a fee is payable by the sports betting provider to the sports controlling body in respect of betting on the sports betting event; and

(ii) if a fee is payable, what the fee is or how it is calculated.

(3) An agreement may contain any other matters the parties consider appropriate.

(4) An agreement takes effect, and may be terminated, in accordance with its terms.

4.5.24 Application for Commission determination if no sports controlling body agreement

(1) If a sports betting provider cannot reach agreement with a sports controlling body under section 4.5.23, the sports betting provider may apply to the Commission for a determination under section 4.5.26.

(2) An application must—

(a) be in the form approved by the Commission; and

(b) be accompanied by the prescribed fee (if any); and

(c) contain or be accompanied by any additional information the Commission requires.

(3) The Commission must not proceed to determine an application unless it is satisfied that the sports controlling body has unreasonably refused or failed to enter into an agreement with the sports betting provider under section 4.5.23, having regard to—
(a) whether the sports controlling body and the sports betting provider have engaged in genuine negotiations and there are no reasonable prospects of agreement being reached; or

(b) whether the sports controlling body has refused to enter into negotiations for an agreement with the sports betting provider.

4.5.25 Procedure on application

(1) The procedure on an application under section 4.5.24 is to be determined by the Commission.

(2) The Commission may cause to be carried out any investigations or inquiries that it considers necessary to consider the application properly.

(3) Despite anything to the contrary in section 10.1.22, any inquiry for the purpose of determining an application under section 4.5.24 must be held in private.

4.5.26 Determination of Commission

(1) On an application under section 4.5.24, the Commission may determine that the sports betting provider may offer a betting service on a sports betting event.

(2) A determination must—

   (a) provide for the sharing of information between the sports betting provider and the sports controlling body for the purposes of protecting and supporting integrity in sports and sports betting; and
(b) state—

(i) whether or not a fee is payable by the sports betting provider to the sports controlling body in respect of betting on the sports betting event; and

(ii) if a fee is payable, what the fee is or how it is calculated.

(3) In making a determination under this section, the Commission must have regard to—

(a) any integrity-related costs that the sports controlling body has incurred or may incur as a result of betting taking place on the sports betting event; and

(b) the integrity of the sports betting event; and

(c) any actual or potential financial returns to the sports betting provider, taking into account existing taxes, charges and levies, from conducting betting on the sports betting event; and

(d) the existing legislative rights and liabilities of the sports betting provider and the sports controlling body with respect to the use and provision of information; and

(e) any other matters the Commission considers relevant.

(4) The Commission must give written notice of a determination, including the reasons for the determination, to the sports betting provider and the sports controlling body.
(5) A determination takes effect at the time notice is given under subsection (4) or at a later time specified in the notice.

(6) The terms of a determination are binding on the sports betting provider and the sports controlling body and may be enforced by either of them as if the determination were an agreement between the sports betting provider and the sports controlling body on those terms.

4.5.27 Variation and revocation of determination

(1) A sports betting provider or a sports controlling body or both may apply to the Commission at any time for the variation or revocation of a determination under section 4.5.26.

(2) An application must—
   (a) be in the form approved by the Commission; and
   (b) be accompanied by the prescribed fee (if any); and
   (c) contain or be accompanied by any additional information the Commission requires.

(3) The Commission may cause to be carried out any investigations or inquiries that it considers necessary to consider the application properly.

(4) Despite anything to the contrary in section 10.1.22, any inquiry for the purpose of determining an application under this section must be held in private.
(5) On an application, the Commission must decide whether or not to vary or revoke the determination and give written notice of its decision, including the reasons for the decision, to the sports betting provider and the sports controlling body.

(6) A variation or revocation of a determination takes effect at the time notice is given under subsection (5) or at a later time specified in the notice.

(7) For the avoidance of doubt, the revocation of a determination does not affect any right or liability of the sports betting provider or sports controlling body under the determination that accrued before the revocation took effect.

4.5.28 Costs of investigating applications

(1) The Commission, by written notice, may require an applicant for a determination under section 4.5.26 or variation or revocation of a determination under section 4.5.27 to pay to the Commission the amount determined by the Commission, being an amount not exceeding the reasonable costs of investigating the application.

(2) The Commission may require the amount to be paid by instalments or at any time before, during or after the investigation, whether or not the Commission makes the determination, variation or revocation sought.

(3) An amount payable under this section may be recovered in a court of competent jurisdiction as a debt to the Crown.
Division 6—Prohibition of betting contingencies

4.5.29 Commission may prohibit betting on contingencies

(1) The Commission, by instrument, may prohibit betting on a contingency if the Commission considers that betting on the contingency—

(a) may expose the relevant event or class of event to unmanageable integrity risks; or

(b) is offensive; or

(c) is contrary to the public interest; or

(d) is unfair to investors; or

(e) should be prohibited for any other reason.

(2) The Commission, by instrument, may vary or revoke a prohibition under subsection (1) at any time.

(3) A prohibition, or variation or revocation of a prohibition, takes effect on the day notice of it is published in the Government Gazette under section 4.5.30(1)(a) or on the later day specified in the notice.

(4) In this section—

contingency means a contingency relating to an event or class of event—

(a) approved under Division 3 for betting purposes; and

(b) held wholly or partly in Victoria.
4.5.30 Notice and publication requirements

(1) The Commission must cause notice of a prohibition under this Division, and the variation or revocation of a prohibition, to be published—

(a) in the Government Gazette; and

(b) as soon as practicable after publication under paragraph (a), in a newspaper circulating generally throughout Australia, or newspapers circulating generally in each State and Territory of Australia.

(2) The Commission must cause written notice of a prohibition under this Division, and the variation or revocation of a prohibition, to be given, as soon as practicable after publication under subsection (1)(a), to each sports betting provider known to the Commission.

(3) Failure to publish a notice under subsection (1)(b) or to notify a sports betting provider under subsection (2) does not affect the validity of the prohibition, variation or revocation, but if a sports betting provider is charged with an offence against section 4.5.31(1) it is a defence if—

(a) notice was not published under subsection (1)(b); and

(b) the sports betting provider was not notified under subsection (2).

(4) The Commission must cause to be made available on its website, a list of all prohibitions under this Division and must update the list as soon as practicable after each publication under subsection (1)(a).
4.5.31 Offence to offer bets on prohibited betting contingencies

(1) A sports betting provider must not, in Victoria or elsewhere—

(a) accept, offer to accept, or invite a person to place, a bet; or

(b) facilitate the placing of a bet—

on a contingency that is the subject of a prohibition under section 4.5.29.

Penalty: 60 penalty units.

(2) Despite anything in the Magistrates' Court Act 1989, a person does not aid, abet, counsel or procure the commission of an offence against subsection (1) only because the person places a bet on a prohibited contingency with a sports betting provider."

4 Consequential amendments

In the Gambling Regulation Act 2003—

(a) in section 1.3(1), insert the following definitions—

"approved betting event has the meaning given in section 4.5.1;"

sports betting event has the meaning given in section 4.5.1;

sports betting provider has the meaning given in section 4.5.1;

sports controlling body has the meaning given in section 4.5.1;"
(b) in section 1.3(1), for the definition of "approved betting competition substitute"—

"approved betting competition" means a betting competition approved by the Minister under section 4.5.3 or the Commission under section 4.5.6;

(c) in section 2.5.16(1)(a)(i), for "an event or contingency on which a betting competition has been approved under Part 5 of Chapter 4" substitute "an approved betting event";

(d) for section 2.5.16(2)(d) substitute—

"(d) any other approved betting event."

(e) for section 2.5.18(2)(d) substitute—

"(d) any other sports betting event."

(f) after section 10.1.3(c) insert—

"(ca) to foster the development of sport by promoting equitable and fair information and revenue sharing between sports betting providers and sports controlling bodies and to foster the integrity of betting on sports betting events;"

(g) after section 10.1.4(2)(f) insert—

"(fa) making determinations and performing other functions in relation to sports betting;"

(h) after section 10.1.4(3)(a)(iii) insert—

"(iiia) sports betting;"

(i) after section 10.4.1(c) insert—

"(ca) an application for approval as a sports controlling body under Division 4 of Part 5 of Chapter 4;"
(j) after section 10.4.2(2)(a)(iv) insert—
"(v) approval as a sports controlling body under Division 4 of Part 5 of Chapter 4;";

(k) after section 10.4.3(4)(ab) insert—
"(ac) approval as a sports controlling body under Division 4 of Part 5 of Chapter 4;";

(l) after section 10.4.4(4)(ab) insert—
"(ac) approval as a sports controlling body under Division 4 of Part 5 of Chapter 4;";

(m) after section 10.4.5(3)(a)(iii) insert—
"(iv) approval as a sports controlling body under Division 4 of Part 5 of Chapter 4;";

(n) in section 10.4.7(1), after "application for a permit," insert "or for approval as a sports controlling body under Division 4 of Part 5 of Chapter 4".

5 Transitional

After Part 14 of Schedule 7 to the Gambling Regulation Act 2003 insert—

"PART 15—GAMBLING AND RACING LEGISLATION AMENDMENT (SPORTS BETTING) ACT 2007"

15.1 Approved betting competitions

(1) The approval of a betting competition in respect of a racing event or contingency that was in force under Part 5 of Chapter 4 immediately before the commencement day remains in force on and after that day subject to any conditions to which the approval was
subject immediately before that day as if it were an approval by the Minister under Division 2 of Part 5 of Chapter 4.

(2) Despite anything to the contrary in this Act, the approval of Trackside as an approved betting competition remains in force on and after the commencement day subject to the conditions to which the approval was subject immediately before that day as if it were an approval by the Minister under Division 2 of Part 5 of Chapter 4.

(3) The approval of a betting competition in respect of an event or class of event (other than a racing event or contingency or Trackside) that was in force under Part 5 of Chapter 4 immediately before the commencement day remains in force on and after that day subject to any conditions to which the approval was subject immediately before that day as if it were an approval of a betting competition by the Commission under Division 3 of Part 5 of Chapter 4.

(4) An event or class of event that is the subject of an approval referred to in subclause (3) is taken, on and after the commencement day, to be an event or class of event approved for betting purposes by the Commission under Division 3 of Part 5 of Chapter 4, subject to any conditions to which the approval was subject immediately before the commencement day.
Part 2—Gambling Regulation Act 2003

Gambling and Racing Legislation Amendment (Sports Betting) Act 2007
No. 18 of 2007

(5) An event or class of event that—
   (a) is the subject of an approval referred to in subclause (3); and
   (b) is an event or class of event, or is related to a sport, referred to in Table 1—

is taken, on and after the commencement day, to be a sports betting event for the purposes of Part 5 of Chapter 4.

TABLE 1

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(6) In this clause—

*commencement day* means the day on which section 5 of the *Gambling and Racing Legislation Amendment (Sports Betting) Act 2007* comes into operation;

*racing event or contingency* means an event or contingency, or a class of event or contingency, of or relating to a horse race, harness race or greyhound race;

*Trackside* means the simulated racing event known as Trackside, formerly known as TABRACE, the conditions of which were approved by the Minister on 23 March 2006 and published in the Government Gazette on 27 March 2006.".

__________________
PART 3—RACING ACT 1958

6 Consequential amendments to the Racing Act 1958

In the Racing Act 1958—

(a) in section 3(1) insert the following definition—

"approved betting event has the same meaning as in the Gambling Regulation Act 2003;";

(b) in section 4(1), after "Act 2003" insert "(except Divisions 5 and 6 of Part 5 of Chapter 4)";

(c) for section 4(1)(a)(ii) substitute—

"(ii) any approved betting event; or";

(d) for section 4(1)(b)(i) substitute—

"(i) on any approved betting event; or";

(e) section 4(1C) is repealed;

(f) in section 5A, after "Act 2003" insert "(except Divisions 5 and 6 of Part 5 of Chapter 4)";

(g) in section 5B(1), for "any other betting contingency or class of betting contingencies approved by the Minister under section 4(1)" substitute "any approved betting event";

(h) in section 84 insert the following definition—

"approved betting event has the same meaning as in the Gambling Regulation Act 2003;";
Gambling and Racing Legislation Amendment (Sports Betting) Act 2007
No. 18 of 2007

Part 3—Racing Act 1958

(i) after section 91E(d) insert—

"(da) a person or body that, in the opinion of the controlling body, controls, organises or administers an approved betting event;".
PART 4—REPEAL OF AMENDING ACT

7 Repeal of Act

This Act is repealed on 1 July 2009.
ENDNOTES

† Minister's second reading speech—
Legislative Assembly: 15 March 2007
Legislative Council: 3 May 2007

The long title for the Bill for this Act was "A Bill for an Act to amend the Gambling Regulation Act 2003 and the Racing Act 1958 and for other purposes."