

Key provisions of the IGA

4 Definitions

designated interactive gambling service means:

- (a) a prohibited interactive gambling service; or
- (b) an unlicensed regulated interactive gambling service.

gambling service means:

- (a) a service for the placing, making, receiving or acceptance of bets; or
- (b) a service the sole or dominant purpose of which is to introduce individuals who wish to make or place bets to individuals who are willing to receive or accept those bets; or
- (c) a service for the conduct of a lottery; or
- (d) a service for the supply of lottery tickets; or
- (e) a service for the conduct of a game, where:
 - (i) the game is played for money or anything of value; and
 - (ii) the game is a game of chance or of mixed chance and skill; and
 - (iii) a customer of the service gives or agrees to give consideration to play or enter the game; or
- (f) a gambling service (within the ordinary meaning of that expression) that is not covered by any of the above paragraphs.

Unlicensed regulated interactive gambling service means a regulated interactive gambling service that is provided in contravention of subsection 15AA(3).

5 Prohibited interactive gambling services

(1) For the purposes of this Act, a **prohibited interactive gambling service** is a gambling service, where:

- (a) the service is provided in the course of carrying on a business; and
- (b) the service is provided to customers using any of the following:
 - (i) an internet carriage service;
 - (ii) any other listed carriage service;
 - (iii) a broadcasting service;
 - (iv) any other content service;
 - (v) a datacasting service

Note: This definition relates to the offence provisions and civil penalty provisions set out in section 15 and Part 7A.

(2) Subsection (1) has effect subject to subsection (3).

Excluded services

(3) For the purposes of this Act, none of the following services is a **prohibited interactive gambling service**:

- (a) a telephone betting service;
- (aa) an excluded wagering service (see section 8A);
- (ab) an excluded gaming service (see section 8B);
- (aba) a place-based betting service (see section 8BA);
- (ac) a service that has a designated broadcasting link (see section 8C);
- (ad) a service that has a designated datacasting link (see section 8C);
- (ae) an excluded lottery service (see section 8D);
- (b) a service to the extent to which it relates to the entering into of contracts that are financial products within the meaning of Chapter 7 of the *Corporations Act 2001*;
- (ba) a wholesale gambling service;
- (bb) a trade promotion gambling service (see section 8BB);
- (c) an exempt service (see section 10).

8 Australian-customer link

For the purposes of this Act, a gambling service has an Australian-customer link if, and only if, any or all of the customers of the service are physically present in Australia.

8AA Telephone betting service

(1) For the purposes of this Act, a **telephone betting service** is a gambling service, where:

- (a) the service is provided on the basis that dealings with customers are wholly by way of voice calls made using a carriage service; and
- (aa) the service does not relate to betting on the outcome of a lottery; and
- (ab) the service does not relate to betting on a contingency that may or may not happen in the course of the conduct of a lottery; and
- (b) the conditions (if any) determined under subsection (2) have been satisfied.

(2) The Minister may, by legislative instrument, determine one or more conditions for the purposes of paragraph (1)(b).

(3) For the purposes of this section, **voice call** means:

- (a) a voice call (within the ordinary meaning of that expression) the content of which consists wholly of a spoken conversation between individuals; or
- (b) if a call covered by paragraph (a) is not practical for a particular customer with a disability (for example, because the customer has a hearing impairment)—a call that is equivalent to a call covered by that paragraph.

(4) The following are examples of calls that are not covered by paragraph (3)(a):

- (a) a call the content of which includes a recorded or synthetic voice;
- (b) a call the content of which includes one or more tone signals.

(5) Paragraph (3)(a) and subsection (4) have effect subject to subsections (6) and (7).

(6) For the purposes of this section, in determining whether a call is covered by paragraph (3)(a), disregard any recorded or synthetic voice used for either or both of the following purposes:

- (a) call waiting;
- (b) a menu system for transferring callers to an extension.

(7) For the purposes of this section, in determining whether a call is covered by paragraph (3)(a), disregard any tone signal used for the sole purpose of a menu system for transferring callers to an extension.

(8) Despite subsection (1), if a gambling service is provided on the basis that any or all of the following information can be provided by a customer otherwise than by way of a voice call:

- (a) a selection of a bet;
- (b) a selection of a bet type;
- (c) a nomination of a bet amount;
- (d) a confirmation of a bet;
- (e) information of a kind determined under subsection (9);

the service is not a **telephone betting service** for the purposes of this Act.

(9) The Minister may, by legislative instrument, determine one or more kinds of information for the purposes of paragraph (8)(e).

8A Excluded wagering service

Racing

(1) For the purposes of this Act, a service is an **excluded wagering service** to the extent to which the service relates to betting on, or on a series of, any or all of the following:

- (a) a horse race;
- (b) a harness race;
- (c) a greyhound race;

so long as the other conditions (if any) determined under subsection (2) have been satisfied.

(2) The Minister may, by legislative instrument, determine one or more conditions for the purposes of subsection (1).

Sporting events

- (3) For the purposes of this Act, a service is an **excluded wagering service**:
- (a) to the extent to which the service relates to betting on, or on a series of, sporting events; and
 - (b) to the extent to which the service is not an in-play betting service;
- so long as the other conditions (if any) determined under subsection (4) have been satisfied.
- (4) The Minister may, by legislative instrument, determine one or more conditions for the purposes of subsection (3).

Other events or contingencies

- (5) For the purposes of this Act, a service is an **excluded wagering service**:
- (a) to the extent to which the service relates to betting on:
 - (i) an event; or
 - (ii) a series of events; or
 - (iii) a contingency;that is not covered by subsection (1) or (3); and
 - (b) to the extent to which the service is not an in-play betting service; and
 - (c) to the extent to which the service is not covered by any of the following subparagraphs:
 - (i) a service for the conduct of a scratch lottery or other instant lottery;
 - (ii) a service for the supply of tickets in a scratch lottery or other instant lottery;
 - (iii) a service relating to betting on the outcome of a lottery;
 - (iiia) a service relating to betting on a contingency that may or may not happen in the course of the conduct of a lottery;
 - (iv) a service for the conduct of a game covered by paragraph (e) of the definition of **gambling service** in section 4;
 - (v) a service relating to betting on the outcome of a game of chance or of mixed chance and skill;
- so long as the other conditions (if any) determined under subsection (6) have been satisfied.
- (6) The Minister may, by legislative instrument, determine one or more conditions for the purposes of subsection (5).
- (7) For the purposes of paragraph (5)(a):
- (a) assume that no conditions have been determined under subsection (2) or (4); and
 - (b) disregard paragraph (3)(b).

8E Regulated interactive gambling service

- (1) For the purposes of this Act, a **regulated interactive gambling service** is:
- (a) a telephone betting service (see section 8AA); or
 - (b) an excluded wagering service (see section 8A); or
 - (c) an excluded gaming service (see section 8B); or
 - (d) a place-based betting service (see section 8BA); or
 - (e) a service that has a designated broadcasting link (see section 8C); or
 - (f) a service that has a designated datacasting link (see section 8C); or
 - (g) an excluded lottery service (see section 8D); or
 - (h) an exempt service (see section 10);
- where:
- (i) the service is provided in the course of carrying on a business; and
 - (j) the service is provided to customers using any of the following:
 - (i) an internet carriage service;
 - (ii) any other listed carriage service;
 - (iii) a broadcasting service;
 - (iv) any other content service;
 - (v) a datacasting service; and

- (k) in the case of an exempt service—a determination under subsection (2) is in force in relation to the service.
- (2) The Minister may, by legislative instrument, determine that each exempt service included in a specified class of exempt services is covered by paragraph (1)(k).
- (3) Subsection (1) has effect subject to subsection (4).
- (4) For the purposes of this Act, neither of the following services is a **regulated interactive gambling service**:
 - (a) a wholesale gambling service;
 - (b) a trade promotion gambling service (see section 8BB).

10B In-play betting service

For the purposes of this Act, a gambling service is an **in-play betting service** to the extent which:

- (c) the service relates to betting on the outcome of a sporting event, where the bets are placed, made, received or accepted after the beginning of an event; or
- (d) service relates to betting on a contingency that may or may not happen in the course of a sporting event, where the bets are placed, made, received or accepted after the beginning of an event.

15 Prohibited interactive gambling services not to be provided to customers in Australia

- (2A) A person must not provide a prohibited interactive gambling service that has an Australian-customer link (see section 8).

Civil penalty: 7,500 penalty units.

- (3) Subsections (1) and (2A) do not apply if the person:
 - (a) did not know; and
 - (b) could not, with reasonable diligence, have ascertained;that the service had an Australian-customer link.

Note: In the case of proceedings for an offence against subsection (1), the defendant bears an evidential burden in relation to the matters in subsection (3) (see subsection 13.3(3) of the *Criminal Code*).

15AA Unlicensed regulated interactive gambling services not to be provided to customers in Australia

- (3) A person must not provide a particular kind of regulated interactive gambling service if:
 - (a) the service has an Australian-customer link (see section 8); and
 - (b) the person does not hold a licence (however described) under a law of a State or Territory that authorises the provision of that kind of service in the State or Territory.

Civil penalty: 7,500 penalty units.

- (5) Subsections (1) and (3) do not apply if the person:
 - (a) did not know; and
 - (b) could not, with reasonable diligence, have ascertained;that the service had an Australian-customer link.

Note: In the case of proceedings for an offence against subsection (1), the defendant bears an evidential burden in relation to the matters in subsection (5) (see subsection 13.3(3) of the *Criminal Code*).

Note: Section 94 (which provides that a person's state of mind does not need to be proven in relation to a civil penalty provision) does not apply to the extent that proceedings relate to the contravention of subsection (1).