Australian Government

Australian Communications and Media Authority

Investigation Report – Palmer Bookmaking Pty Ltd

Summary	
Entity	Palmer Bookmaking Pty Ltd, trading as Palmerbet (**Palmerbet**)
Australian Company Number	154 794 411
Relevant legislation	*Interactive Gambling Act 2001*
Type of activity	Part 7B – National Self-Exclusion Register
Findings	18 contraventions of section 61KA(3) [Provision of licensed interactive wagering services to a registered individual] No contraventions of section 61LA(4) [Sending regulated electronic messages to an electronic address of a registered individual – recklessness of provider] 535 contraventions of section 61MB(5) [Not closing an account held by a registered individual – no outstanding or pending bets] No contravention of subsection 61JP(5) [Failure to promote the NSER as required by subsection 25(3) of the *Interactive Gambling (National Self-exclusion Register) Register Rules 2022*].

Publication note: '[….]' indicates that text has been removed from the publication version of this report. The removed text is commercially or operationally sensitive information or is personal information.

Background

1. On 30 April 2025, the ACMA commenced an investigation into Palmerbet's compliance with Part 7B of the *Interactive Gambling Act 2001* (**IGA**), following a complaint from a consumer (the **Complainant**) that was received by the ACMA.
2. On 8 May 2025, under paragraph 173(b) of the *Broadcasting Services Act 1992* (**BSA**), the ACMA gave Palmerbet a Notice requiring it to provide information pursuant to the investigation (the **Notice**).
3. Palmerbet made 2 submissions to respond to the Notice:
   - 29 May 2025 (Submission 1); and
   - 19 June 2025 (Submission 2).
4. The ACMA's findings are based on:
   - Submissions 1 and 2;
   - records extracted from the NSER by the ACMA, which record when the Complainant became a registered individual, when Palmerbet made requests to the Register operator, and when the Register operator responded to those requests in accordance with section 61NC of the IGA; and

- Palmerbet's submission of 3 November 2025 (Submission 3) in response to the ACMA's preliminary findings of 13 October 2025 (Preliminary Findings).

5. […]
6. The reasons for the ACMA's findings, including the key elements which establish the alleged contraventions are set out below.

Relevant legislative provisions

7. Obligations related to the NSER are set out in Part 7B of the IGA. The provisions relevant to this investigation are provided at **Attachment A** including, where relevant, references to the *Interactive Gambling (National Self-exclusion Register) Register Rules 2022* (**Register Rules**). Unless otherwise specified all references to provisions within legislation in the report are a reference to provisions within the IGA.

Findings

Finding 1 - Breach: 18 contraventions of section 61KA(3) – providing licensed interactive wagering services to a registered individual

Regulatory obligation

8. Subsection 61KA(3), which is a civil penalty provision, provides that a licensed interactive wagering service provider (**IWP**) must not provide a licensed interactive wagering service to a registered individual.
9. A licensed interactive wagering service is defined by section 61GB as a regulated interactive gambling service (defined by section 8E) that:
    - is a wagering service (as defined in section 4); and
    - has an Australian customer link (as defined in section 8); and
    - is not provided in contravention of subsection 15AA(3)
10. Subsection 61KA(4) provides that a person commits a separate contravention of subsection 61KA(3) in respect of each day during which the contravention occurs.
11. Subsection 61KA(5) provides that subsection 61KA(3) does not apply if the licensed IWP took reasonable precautions, and exercised due diligence, to avoid the contravention.

Is Palmerbet a licensed IWP for the purposes of the IGA?

12. Palmerbet is licensed by Racing NSW and is provided with authorisation by Liquor and Gaming NSW to provide licensed interactive wagering services in Australia. For this reason, Palmerbet is included on the ACMA's Register of IWPs maintained under section 68 of the IGA.[1]
13. It is not disputed that Palmerbet is an IWP for the purposes of the IGA, and that the obligations in Part 7B apply.

[1] A list of licensed providers is contained on the ACMA's register of licensed interactive gambling providers website: Check if a gambling operator is legal | ACMA Accessed 30 March 2026.

Did Palmerbet provide licensed interactive wagering services to a registered individual?

14. NSER records confirm that the Complainant became a registered individual on 2 September 2023 […].

15. Palmerbet confirmed that the Complainant had an existing licensed interactive wagering service account which was opened on 8 August 2018.

16. In Submission 1, Palmerbet confirmed that it accepted […] bets from the Complainant across 18 separate days from December 2024 – February 2025 […].

17. Palmerbet does not dispute that the Complainant was able to wager through their Palmerbet Licenced Account across 18 days between 8 December 2024 and 22 February 2025.

18. NSER records confirm that the Complainant was a registered individual during the period from 8 December 2024 to 22 February 2025.

19. Therefore, the ACMA is of the view that Palmerbet provided licensed interactive wagering services to the Complainant, a registered individual, on 18 separate days.

Did Palmerbet take reasonable precautions and exercise due diligence to avoid the contraventions?

20. The IGA provides that certain civil penalty provisions applicable to IWPs do not apply if the IWP took reasonable precautions and exercised due diligence to avoid the contravention, including the following considered in this investigation:

    a) Providing interactive wagering services to a registered individual (section 61KA).

    b) Sending or causing to be sent, a regulated electronic message to an electronic address of a registered individual, where the electronic address is known by the provider to be an electronic address of a registered individual or the provider is reckless to the fact that the address is that of a registered individual (section 61LA), as discussed below in Finding 2.

    c) Not immediately closing the interactive wagering account/s of a registered individual with no outstanding or pending bets (section 61MB), as discussed below in Finding 3.

21. An IWP bears the evidential burden of establishing that the exception applies, which includes being able to produce records and evidence that demonstrates it took reasonable precautions and exercised due diligence (section 96 of the *Regulatory Powers (Standard Provisions) Act 2014* (***RPA***)).

Palmerbet submissions

22. In Submissions 1 and 2, Palmerbet submitted that it took reasonable precautions and exercised due diligence to avoid contravening subsection 61KA(3) in relation to the Complainant, including that it:

    > verified the identity of the Complainant and that such verification was undertaken in accordance with its obligations under the *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007* (AML/CTF Rules) as relevant at the time the Complainant's account was opened;

    > took steps to satisfy itself that the Complainant had access to the original mobile number used with their wagering account through multi-factor authentication using a 'one-time password' (OTP) on 26 September 2020 and 20 July 2023;

- undertook documented email marketing engagement which included confirmation that the complainant could access the email address that Palmerbet had recorded for the complainant through a marketing email sent on 9 August 2024;
- took steps to encourage Palmerbet customers to update their details ahead of the launch of the NSER on 21 August 2023; and
- regularly checked the Complainant's details against the NSER. Palmerbet submitted that the Register operator did not respond that the Complainant was a registered individual until 3:44:38 PM (AEDT) on 22 February 2025, after the wagering services described in paragraph 16 were provided.

23. In Submission 3[2], Palmerbet further submitted that:
    - the tiered precautions and diligence undertaken by Palmerbet was proportionate to the risks associated with its customer base, having regard to its size and capability. Whilst the Complainant was part of a smaller cohort who were subject to less rigorous precautions, that does not mean that the precautions that were taken with respect to the Complainant were unreasonable.

Initial observations

24. The ACMA has reviewed NSER records and the Complainant's wagering account details, as provided by Palmerbet in Submission 1. The ACMA is of the view that Palmerbet's requests about the Complainant to the Register operator under section 61NC before 3:44:38 PM (AEDT) on 22 February 2025 did not result in a positive match because the information in the Complainant's Palmerbet account did not […] match their NSER entry […] as Palmerbet […] recorded and used:
    - [an incorrect] date of birth […]; and
    - [shortened] first name […]

NSER requests

25. 'Registered individual' is defined in section 61GB to mean an individual registered in the National Self-exclusion Register under Part 7B of the IGA.
26. Section 61NC of the IGA provides that an IWP can check the registration status of an individual at any time of day or night by making a request to the Register operator (a **request**). Under subsection 61NC(6) an IWP must be 'connected'[3] to the NSER so that it can make such requests.
27. Subsection 23(1) of the Register Rules requires the Register operator to respond to such requests within:
    a) 1 second where the request covers 1 individual; and
    b) 15 minutes where the request covers multiple individuals.
28. In practice, the Register operator returns responses much quicker than the timeframes set out in the Register Rules, with a response to a single request returned, on average, in 0.003 seconds.

[2] Submission 3 also includes various additional arguments which are directed to the reasoning set out in the Preliminary Findings. These arguments have been considered and are addressed in the discussion below.
[3] Relevantly subsection 61NC(6) provides that a licensed interactive wagering service provider must take all reasonable steps to ensure that the provider: (a) has a computer system; and (b) is continuously supplied with an internet carriage service; that (when considered together) enable the provider to: (c) make requests under subsection (1) at any time of the day or night; and (d) be informed by the Register operator in compliance with those requests.

29. Under section 61NC, an IWP may request the Register operator to inform the IWP whether a specified individual is a registered individual as at the time when the request is made. Subsection 61NC(2) provides that a request under subsection 61NC(1) must include the individual's name and such other information as prescribed in the Register Rules.

30. Paragraph 22(1)(b) of the Register Rules provides that for each individual covered by the request by the IWP to the Register operator, their name, contact details, date of birth and residential postcode must be included. 'Contact details' is defined in section 4 of the Register Rules to mean one or more email addresses and one or more mobile numbers.

Guidance and technical requirements provided to IWPs

31. BetStop – the National Self Exclusion Register – commenced on 21 August 2023. IWPs had a considerable period of time to prepare for the commencement of the NSER from the passage of the legislation (in 2019) to the launch. This included the ACMA and Register operator issuing guidance and technical specifications to IWPs prior to launch:

    a) On 30 May 2022, over 12 months before the NSER commenced, the ACMA issued *Guidelines on reasonable precautions and due diligence* (**May 2022 Guidelines**)[4] on matters the ACMA may take into account in considering this defence. These guidelines were issued with a caveat that the guidance was not definitive and that each provider had a responsibility to:

        > review its systems, processes and practices
        > use its own judgement or seek professional advice.

    b) Amongst other things the guidelines reminded IWPs that the key purpose of the NSER is to minimise gambling harm in the community. It follows from this that if a person has self-excluded and is then allowed to wager, the harm can be considerable. The ACMA articulated the expectation, that in this context, IWPs would invest the appropriate time and effort to comply with the rules. We noted that when assessing reasonable precautions and due diligence we would consider all the circumstances and whether the measures taken were proportionate to the seriousness of the obligations.

    c) The May 2022 Guidelines noted that the act of checking the NSER before opening a new account, alone, was unlikely to satisfy the test of reasonable precautions and due diligence.

    d) Reasonable precautions and due diligence would also include IWPs having a system that ensures that the information provided by a new customer is accurate before using it to check the NSER.

    e) Prior to launch of the NSER and as part of standard onboarding procedures, to assist IWPs make valid requests under section 61NC, the Register operator provided IWPs with technical requirements[5] for making such requests, including the data about customers to be included in each request and the format of such data. Amongst other things, the specifications state that:

[4] The current version of the May Guidelines are published on the ACMA's website here: https://www.acma.gov.au/guidelines-reasonable-precautions-and-due-diligence. The ACMA has checked the version that was originally published and can confirm it includes the extracts that are provided in this investigation report.
[5] https://iwp.betstop.gov.au/help-centre/technical-requirements/.

> *The customer's legal **full** first name and last name must be passed **exactly** as shown on an Australian government identity document. Do not use nicknames or shortened names as the first name. Do not include any middle name/s with the first name.*

32. Furthermore, the ACMA issued a Compliance Update on 19 March 2024 (**March 2024 Compliance Update**) that reinforced that requests to the NSER must follow the technical requirements specified by the Register operator.[6] In particular, the ACMA advised that wagering providers should review the technical requirements and make sure their systems – and the way they submit requests to the Register operator – comply with the requirements. The ACMA provided specific guidance that IWPs must pass a customer's legal first name and last name exactly as shown on an Australian Government identity document and that IWPs should not:

    a) use nicknames or shortened names as the first name

    b) include middle name/s with the first name.

33. A failure to adhere to the technical requirements poses the risk of not being able to identify a customer as a registered individual.

34. Palmerbet submitted that the ACMA's guidance concerning the use of a customer's full legal name is inconsistent with the definition of an individual's "name" in section 61GB of the IGA.[7] The ACMA does not accept that submission. Whilst "name" is defined broadly in section 61GB of the IGA, the NSER verifies personal details using official government identity documents. Accordingly, the NSER is not designed to include nicknames, shortened names or aliases, and this has been communicated to IWPs. To permit IWPs to use nicknames, shortened names or aliases when the systems do not allow for this, would likely undermine the operation of the NSER and the consumer protection objectives of Part 7B of the IGA. Regardless of whether the statutory scheme could allow for such nicknames to be registered, in the current circumstances, this is not the case and would be clearly contrary to the technical requirements of the Register operator, which IWPs are required to meet, and compliance guidance previously provided by the ACMA.

35. *Identity verification of the Complainant*

36. Submission 1 detailed that Palmerbet opened a licensed interactive wagering service account for the Complainant on 8 August 2018 and verified the Complainant's identity on 17 November 2019 through a third-party identity verification provider.

37. Palmerbet confirmed that it did not verify the Complainant's date of birth when it verified their identity. This is supported by evidence from Palmerbet's identity verification provider which stated that only the Complainant's first initial, last name and address were verified at the time.[8]

38. Palmerbet also submitted that the Complainant was required to upload a telephone bill to confirm the name and residential address that they provided upon account creation (**the telephone bill**). The ACMA has considered this evidence and noted that the telephone bill provided includes the Complainant's full first name.

39. Palmerbet argues that the *ACMA 'presumes, without a proper basis, that the telephone bill is an authoritative basis of a person's legal name. This is fundamentally flawed.'*

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[6] Compliance bulletin 19 March 2024.
[7] Submission 3, paragraphs 38 to 42.
[8] Submission 1, Annexure F-01

40. The ACMA is of the view that Palmerbet has relied on and accepted the Complainant's telephone bill as 'an authoritative basis' in confirming the Complainant's identity. The telephone bill, obtained and reviewed by Palmerbet personnel, put Palmerbet on notice that the Complainant was using 2 different names, the shortened version that was recorded in its system and the longer version that was on the telephone bill. However, despite that, Palmerbet continued to rely on the shortened version of the first name and did not take steps to verify which first name was the Complainant's full legal first name before recording this information in its system and using it to submit NSER requests.[9] Palmerbet submitted that its processes were consistent with its requirements at the time under AML/CTF Rules and that this represented 'industry practice'.[10]

41. The ACMA considers that the requirement under section 61KA to take reasonable precautions and exercise due diligence to avoid providing licensed interactive wagering services to a registered individual is separate and distinct to any applicable requirements under the AML/CTF Rules. The AML/CTF Rules are a separate regime that have a different purpose and objective to Part 7B of the IGA.

42. The ACMA does not consider that an IWP that previously satisfied its verification obligations under the AML/CTF Rules will necessarily be found to have taken reasonable precautions and exercised due diligence under the IGA in all circumstances.

43. Palmerbet submitted that it updated its arrangements in July 2023, prior to the commencement of the NSER, to require mandatory verification of a new account holder's date of birth, in addition to the pre-existing requirements to verify the customer's full name and residential address.[11] The ACMA is of the view that this demonstrated Palmerbet's awareness of the risk that its past practices may be ineffective in obtaining accurate customer information for the purposes of checking customer information against the NSER. The ACMA notes that this uplift focused on the risk associated with the information collected from new customers but did not address this risk for some of its existing customers, including the Complainant. The ACMA notes that Palmerbet has made submissions to the effect that later improvement to a system does not necessarily mean that past actions did not, at the time, meet the relevant threshold to establish that it took reasonable precautions and exercised due diligence. This is not in dispute. In this case, the improvement was implemented by Palmerbet in the lead up to the launch of the NSER (and well before it provided the wagering services to the Complainant which are the subject of this investigation), and indicate that Palmerbet was aware that its existing systems and processes prior to NSER launch were not effective in obtaining accurate customer information to be used for the purposes of checking customer information against the NSER.

44. As noted above, the ACMA's Compliance update of March 2024 reinforced that requests to the NSER must follow the technical requirements specified by the Register operator and that wagering providers should review the technical requirements and make sure their systems and the way they submit requests to the Register operator comply with the requirements. The ACMA provided specific guidance that IWPs must pass a customer's legal first name and last name exactly as shown on an Australian Government identity document and that IWPs should not use nicknames or a shortened first name. This was another opportunity for Palmerbet to consider

[9] Submission 1, Annexure F-02
[10] Submission 1, pg 18, paragraph 75.
[11] Submission 1, pg 14, paragraph 54.

improvements in line with this guidance and to ensure that those improvements extended to its entire customer base, however Palmerbet failed to do so.

Verification of Complainant's contact details

45. The ACMA notes that Palmerbet took reasonable steps to satisfy itself that the Complainant had access to the contact details that they used for their Palmerbet account (paragraph 22) and that it was appropriate to rely on the contact details in making requests to the Register operator.

Steps Palmerbet took to ensure the accuracy of personal information for existing customers

46. Palmerbet submitted that it took precautions ahead of the NSER launch on 21 August 2023 to satisfy itself that the information contained in existing wagering accounts (and therefore to be included in section 61NC requests) was accurate. These precautions included:
    - A 'targeted communication campaign to promote the register to its customer base in August 2023'. This campaign included an email 'to all active and non-excluded account holders' in August 2023 that advised of the upcoming launch of the NSER and 'directed them to review and confirm that their account details […] were accurate and up to date'[12] (the **August 2023 email**).
    - A process to periodically re-verify select accounts. […] The ACMA understands this submission to mean that, at the time subject to investigation, Palmerbet only re-verified the information of [a certain cohort] (**reverification cohort**) and did not conduct a re-verification of all its customers information nor customers with an unverified date of birth.
47. Similar to Palmerbet's submission that it updated its identity verification requirements in July 2023, the ACMA is of the view that this action demonstrated Palmerbet's awareness of the risk that its existing practices may be ineffective in obtaining accurate customer information. Despite awareness of that risk, Palmerbet did not send the August 2023 email to all its customers, including the Complainant who was on a 'take a break' period with Palmerbet at the time the email was sent to a select number of Palmerbet customers.
48. While it may not have been appropriate to send such an email 'during the Complainant's 'take a break' period, Submission 1 indicated that Palmerbet did not send the August 2023 email to the Complainant after their 'take a break' period ended on 26 August 2023. Further, the Complainant was not one of the [reverification cohort].
49. The ACMA is of the view that since the initial identity verification in 2019, Palmerbet undertook no steps to re-verify the Complainant's details (apart from multifactor authentication sent to the Complainant's mobile number to access their account), as it did with a select group of its customers. It was both reasonable (given Palmerbet's awareness of the risk) and practicable (given Palmerbet's steps to communicate with other customers) to take precautionary steps to confirm the accuracy and completeness of the Complainant's personal identifying information, being their full legal first name and date of birth.
50. This would have included contacting the Complainant with an email similar to the August 2023 email once the Complainant completed their temporary 'take a break' period with Palmerbet. Failing to send such an email to the Complainant meant that Palmerbet applied a lower level of due diligence to the Complainant compared to its

[12] Submission 1, pg 13 paragraph 51.

other select group of customers who received an email notification to update their details and/or [the reverification cohort].

51. Palmerbet submitted that verifying the details for only a select group of its customers was an example of 'tiered precaution and diligence' that was proportionate to the risks associated with its customer base, having regard to its size and capability'. The ACMA acknowledges that whether reasonable precautions and due diligence have been exercised will depend on the specific facts of the matter being considered, and the size and capability of an IWP might impact on what is reasonable. In this case, Palmerbet clearly had the capability to make improvements and extended those improved measures to [a select cohort of customers] . Given it had that capability, Palmerbet's size is not a relevant factor when considering whether it took reasonable precautions and exercised due diligence to avoid contravening subsection 61KA(3) as it could have extended the same measures and improvements to its entire customer base. Palmerbet's failure to take reasonable precautions and exercise due diligence by verifying the Complainant's legal name and date of birth resulted in Palmerbet providing wagering services to a registered individual in contravention of the IGA.

52. Palmerbet submitted that clause 3.3 of its Terms and Conditions imposed:

> an acknowledgement on the Complainant's behalf that the Complainant was responsible for their customer details being up-to-date; and

> an obligation to notify Palmerbet of any incorrect customer details.

53. The ACMA's view is that Palmerbet does not, in the absence of any proactive steps taken with respect of the Complainant, absolve itself of the obligations to take reasonable precautions and exercise due diligence by relying on the Complainant to take these steps under Palmerbet's terms and conditions.

Palmerbet's requests to the Register operator

54. The ACMA is of the view that:

> Palmerbet submitted section 61NC requests to query if the Complainant is a registered individual around the time it provided them licensed interactive wagering services;

> these NSER requests included the Complainant's shortened first name and an incorrect date of birth; and

> because the date of birth and first name were incorrect, the requests resulted in a negative match response from the Register operator.

55. As noted above, the ACMA is of the view that the act alone of submitting a request to the Register operator under section 61NC before providing licensed interactive wagering services to a customer is unlikely to satisfy a test of reasonable precautions and due diligence for the purpose of subsection 61KA(5).[13] In this context, all the relevant circumstances and actions an IWP took (or it would have been reasonable for it to take) would need to be considered.

56. In order to give effect to an individual's decision to self-exclude with the NSER, the Register operator relies on IWPs using accurate, complete and current information of their customers when submitting NSER requests to the Register operator. An IWP is expected to have robust validation and verification processes of the customer information that it holds and includes in section 61NC requests, including dates of birth and full legal names. The ACMA's view is that an IWP cannot rely solely on a section

[13] https://www.acma.gov.au/compliance-considerations accessed 26 March 2026.

61NC request containing unverified or unvalidated customer information to demonstrate that it has taken reasonable precautions and exercised due diligence.

57. As outlined above, the ACMA issued compliance guidance on 19 March 2024, highlighting the importance of complying with the technical requirements for the NSER, including that IWPs should not use shortened names or nicknames when submitting NSER requests Submission 1 demonstrates that Palmerbet was aware of this risk and has taken precautions for new customers and a select cohort of existing customers however that did not include the Complainant.

58. Palmerbet used an unverified date of birth and shortened first name for the Complainant in its section 61NC requests to the Register operator. This was despite […] the NSER relying on an IWP submitting current and correct information. As a result of Palmerbet submitting NSER requests to the Register operator with an unverified date of birth and a shortened first name of the Complainant Palmerbet failed to comply with the technical requirements of the Register operator and reduced the Register operator's ability to positively match the Complainant, leading to Palmerbet providing licensed interactive wagering services to the Complainant.

59. Based on the evidence considered and the NSER records, the ACMA is of the view that had Palmerbet verified and used the Complainant's correct date of birth and full legal first name, Palmerbet's section 61NC requests would have returned a positive response from the Register operator that the Complainant was a registered individual.

60. As noted in paragraph 49, it was both reasonable and practicable to take precautionary steps to seek to confirm the Complainant's personal information, including their date of birth. This could have included:

> Palmerbet sending the August 2023 email to the Complainant after their 'take a break' period ended on 26 August 2023; and/or

> re-verifying the Complainant's information for accuracy and completeness, as Palmerbet had done with [the reverification cohort].

61. The ACMA is of the view that Palmerbet did not take the same reasonable precautions and due diligence for the Complainant as it had taken with its new customers, [the reverification cohort], and customers who were not on a break at the time that the August 2023 email was sent. As a result, Palmerbet provided the Complainant with wagering services.

Conclusion

62. On the basis that the ACMA does not consider the exception in subsection 61KA(5) applies, the ACMA has found that Palmerbet contravened subsection 61KA(3) on 18 occasions between 8 December 2024 and 22 February 2025 by providing licensed interactive wagering services to the Complainant.

Finding 2 – No Breach: Section 61LA(4) – sending a regulated electronic message to self-excluded persons – recklessness of provider

Regulatory obligation

63. Subsection 61LA(4) of the IGA, which is a civil penalty provision, provides that an IWP must not send, or cause to be sent, a regulated electronic message to an electronic address if:

    a) the electronic address is an electronic address of a registered individual; and

    b) the person is reckless as to the fact that the electronic address is an electronic address of the registered individual.

Did Palmerbet send, or cause to be sent, electronic messages?

64. In Submission 1, Palmerbet provided details and content of the electronic messages that it sent to the Complainant between 2 September 2023 and 8 May 2025 (the date of the Notice), including the date, time and content of the messages. Palmerbet submitted that, in this time period, it sent:

> 33 emails; and
> 1 SMS message.

Are the messages electronic messages?

65. Section 61GE of the IGA defines an electronic message as a message sent:

(a) using:

(i) an internet carriage service; or

(ii) any other listed carriage services, and

(b) to an electronic address in connection with:

(i) an email account; or

(ii) an instant messaging account; or

(iii) a telephone account; or

(iv) a similar account.

Note: Email addresses and telephone numbers are examples of electronic addresses.

66. Email messages are messages sent using an internet carriage service to an email address in connection with an email account. The ACMA is therefore of the view that the 33 email messages that were sent or caused to be sent by Palmerbet, referred to above, are electronic messages under subparagraphs 61GE(1)(a)(i) and (b)(i) of the IGA.

67. SMS messages are messages sent using a listed carriage service or internet carriage service to a telephone number in connection with a telephone account. The ACMA is therefore of the view that the 1 SMS message that was sent or caused to be sent by Palmerbet, referred to above, was an electronic message under subparagraphs 61GE(1)(a)(i) and (b)(iii) and 61GE(1)(a)(ii) and (b)(iii) of the IGA.

Were the messages that Palmerbet sent, or cause to be sent, regulated electronic messages?

68. A regulated electronic message is defined, in section 61GF, as an electronic message where, having regard to:

(a) the content of the message;

(b) the way in which the message is presented; and

(c) the content that can be located using the links, telephone numbers or contact information (if any) set out in the message;

it would be concluded that the purpose, or one of the purposes, of the message is:

(d) to offer to provide licensed interactive wagering services; or

(e) to advertise or promote licensed interactive wagering services; or

(f) to advertise or promote a provider, or prospective provider, of licensed interactive wagering services.

69. In Submission 1, Palmerbet provided the details and content of the 34 messages referred to in paragraph 64.

70. Regarding the 34 electronic messages, Palmerbet stated in Submission 1 that "all communications with the Complainant were for the purposes of offering a promotion or information on offers available".[14]

71. The ACMA has reviewed the 34 messages and agrees with Palmerbet's submission. The ACMA is of the view that the 34 messages were regulated electronic messages.

<u>Were the regulated electronic messages sent to the electronic addresses of a registered individual?</u>

72. Palmerbet confirmed in Submission 1 that it sent or caused to send the 34 regulated electronic messages to the electronic addresses of the Complainant. The ACMA's view is that these messages were sent to an electronic address of a registered individual because the address was listed in the Complainant's NSER record.

73. Accordingly, the ACMA is of the view that the 34 regulated electronic messages were sent to the electronic addresses of a registered individual.

<u>Was Palmerbet reckless as to that fact that the electronic addresses were the electronic addresses of a registered individual?</u>

74. Subsection 61LA(4) prohibits IWPs from sending, or causing to be sent, regulated electronic messages where the IWP is reckless to the fact that the electronic address is an electronic address of a registered individual.

75. Subsection 61LA(5) sets out the relevant test for recklessness, where for the purposes of subsection 61LA(4), a person is reckless as to the fact mentioned in paragraph (b) of that subsection (i.e. the fact that the electronic address is the electronic address of the registered individual to whom the message is sent) if:

    (a) the person is aware of a substantial risk that the fact exists; and

    (b) having regard to the circumstances known to the person, it is unjustifiable to take the risk.

76. The NSER was established to provide a one-stop process for consumers to exclude themselves from all IWPs. Consumers registered with the service have a reasonable expectation that by registering, IWPs will comply with their legal obligations to not open wagering accounts, provide wagering services, or market to them.

77. Palmerbet is an established IWP operating in a regulated environment that requires it to put in place robust consumer protection measures under relevant Commonwealth, State and Territory law, including the IGA, to protect its users.

78. The ACMA considers that Palmerbet's submissions demonstrate that it was aware of the risk that its customers could become registered individuals at any time and that it needed to have processes in place to identify registered individuals, including through linking customer accounts. In Submission 1, Palmerbet affirmed that 'All relevant Personnel were, and continue to be, aware of the substantial risk that an Electronic Address might belong to a registered individual if a customer's self-exclusion status or eligibility changed'.[15] Furthermore, Palmerbet advised that its checking processes were established to identify and respond to changes to a customer's self-exclusion

[14] Submission 1, pg 25, paragraph 114.
[15] Submission 1, pg 9, paragraph 36.

status ‘in real time’, demonstrating an awareness that customers could become registered individuals at any time.[16]

79. Submission 1 also outlined Palmerbet’s processes to try to identify customers on marketing lists as self-excluded customers ‘at multiple stages in the communication lifecycle’[17] and then prevent them from receiving marketing.

80. The ACMA is of the view that Palmerbet was aware of the general risk that the Complainant’s electronic addresses (i.e. email address and phone number) could belong to a registered individual from 21 August 2023, when the NSER was launched, as Palmerbet’s customers were able to become registered individuals from this time. This awareness was demonstrated in Palmerbet’s submissions, its engagement with the ACMA and the Register operator ahead of the delivery of the program, and the ACMA’s compliance guidance and other educative material sent to Palmerbet.

81. Furthermore, as noted in paragraph 46 of this report, the ACMA has considered Palmerbet’s evidence that it:

    > sent the August 2023 email to all active and non-excluded account holders, to encourage them to review and update or correct their customer information; and

    > had a program to re-verify the information of [the reverification cohort],

    as a demonstration that it was also aware of the risk that its past practices may be ineffective in obtaining accurate customer information.

82. Based on these submissions, the ACMA is of the view that Palmerbet demonstrated an awareness and understanding of:

    > the importance of accurate information in section 61NC requests for accurate responses from the Register operator about whether or not a customer is a registered individual;

    > the risk that the information in customers’ wagering accounts could be inaccurate and the need for Palmerbet to both:

        o make changes to its processes and procedures; and

        o take steps to communicate with customers to encourage that they confirm their information; and

    > the specific risks to the accuracy of responses from the Register operator to section 61NC requests where those requests include inaccurate, unverified, unvalidated or out-of-date customer information.

83. The ACMA considers that using unverified or incorrect information about a customer runs the risk of relying on inaccurate information and reducing the likelihood of a reliable response from the Register operator under section 61NC. Such behaviour is inconsistent with the compliance guidance issued by the ACMA, including on 19 March 2024, and exposed Palmerbet to the risk that it would act recklessly and send regulated electronic messages to a registered individual.

84. The ACMA also considers that Palmerbet was aware that the date of birth recorded in the Complainant’s wagering account had not been verified based on the evidence it was provided by its identity verification provider. Although Palmerbet submitted that it

[16] Submission 1, pg 5, paragraph 20.
[17] Submission 1, pg 7, paragraph 30.

‘had no reason to suspect that the Complainant’s details contained any error’[18], the ACMA is of the view that:

> it equally had no reasonable grounds to be confident that the date of birth recorded was accurate, having taken no steps to satisfy itself of this fact; and

> evidence from its identity verification provider showed that fields other than the date of birth had been verified.

85. In Submission 1 to the ACMA, Palmerbet outlined its marketing compliance processes, including its arrangements to submit section 61NC requests for customers ‘at multiple stages in the communication lifecycle’[19] and thereby prevent marketing being sent to customers that the Register operator had informed Palmerbet were registered individuals. Palmerbet contended that these processes ‘demonstrate that Palmerbet has taken and continues to take clear, deliberate, and sustained actions to manage and eliminate the risk of breaching its regulatory obligations.’[20]

86. In its submission in response to the preliminary findings, Palmerbet argued that “[B]eing generally aware that its processes might product [sic] inaccuracies is not equivalent to being aware that a particular customer’s data is inaccurate” and that the “ACMA’s reasoning effectively equates a general systems-risk awareness into specific misconduct that resulted in the breach.”[21] Palmerbet further submitted that “it maintained a comprehensive and risk-proportionate compliance framework that satisfied the requirements of [sub]section 61LA(6).”[22]

87. The ACMA acknowledges Palmerbet’s submissions and considers it demonstrated an awareness that it needed internal systems and processes to address and eliminate the risk of sending marketing to electronic addresses that may belong to registered individuals. If that risk amounted to a substantial risk that this fact exists, then it would have been unjustifiable for it to take the risk of sending regulated electronic messages to an electronic address of a registered individual.

Conclusion

88. The ACMA accepts that, in this case, while Palmerbet was aware of a risk that the electronic address it was sending regulated electronic messages to could be an electronic address of a registered individual, however it was not aware of a substantial risk of that fact. Therefore, for the purposes of subsections 61LA(4) and (5), Palmerbet was not reckless as to the fact that the relevant electronic address was an electronic address of a registered individual.

89. While the ACMA has found that 34 regulated electronic messages were sent to the electronic address of a registered individual, the ACMA accepts that in the circumstances Palmerbet was not reckless to the fact that the electronic address belonged to a registered individual and did not contravene subsection 61LA(4).

[18] Submission 1, pg 18, paragraph 77.
[19] Submission 1, pg 7, paragraph 30.
[20] Submission 1, pg 9, paragraph 36.
[21] Submission 3, pg 17, paragraph 70.
[22] Submission 3, pg 20, paragraph 77.

Finding 3 – Breach: Failure to close a licensed interactive wagering service account of a registered individual – no outstanding bets (subsection 61MB(5))

Regulatory obligation

90. Under subsection 61MB(5) of the IGA an IWP must, as soon as practicable after an individual with no outstanding or pending bets becomes a registered individual:
    - close the individual's account;[23] and
    - pay the individual:
        - the credit balance of the individual's account (if any);[24] or
        - the credit balance of the individual's account remaining after the deduction of any debts owed to the IWP immediately prior to the individual becoming a registered individual (if any).[25]
91. What is regarded as 'as soon as practicable' may vary on a case-by-case basis depending on relevant circumstances.
92. Subsection 61MB(7) provides that subsection 61MB(5) does not apply if the licensed interactive wagering service provider took reasonable precautions, and exercised due diligence, to avoid the contravention.
93. Where an account has been closed, the IWP must not reopen, reactivate or reinstate the account (paragraph 61MB(5)(f)). Where an account has been closed, the IWP must not then provide the relevant individual wagering services through that account after they cease to be a registered individual (paragraph 61MB(5)(e)). These requirements do not prevent an IWP from opening a new account for an individual after they cease to be a registered individual (subsection 61MB(6)).
94. Subsection 64B(1) provides that each civil penalty provision of the IGA is enforceable under Part 4 of the *Regulatory Powers (Standards Provisions) Act 2014*, including subsections 61MB(5) and 61MC(5).
95. Subsection 93(1) in Part 4 of the RPA provides that if an act or thing is required under a civil penalty provision to be done within a particular period or before a particular time, then the obligation to do that act or thing continues until the act or thing is done (even if the period has expired or the time has passed). Subsection 93(2) of the RPA provides that a person who contravenes a civil penalty provision that requires an act or thing to be done within a particular period or before a particular time commits a separate contravention of that provision in respect of each day during which the contravention occurs.
96. Accordingly, an IWP that contravenes subsection 61MB(5) by failing to close a wagering account of a registered individual that has no outstanding bets and pay any credit balance as soon as practicable after the individual becomes a registered individual will be committing a separate contravention of that provision for each day that it fails to close the account after the expiration of the 'as soon as practicable' period.

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[23] See subparagraphs 61MB(5)(c)(i) & (d)(i), with the former applicable where the individual did not owe any debts to the IWP immediately prior to becoming a registered individual and the latter applicable where such debts were owed to the IWP.
[24] See subparagraph 61MB(5)(c)(ii).
[25] See subparagraph 61MB(5)(d)(ii).

Did the Complainant hold a licensed interactive wagering service account before becoming a registered individual?

97. Finding 1 established that the Complainant became a registered individual on 2 September 2023 […].

98. As noted in paragraph 36 of this report, Palmerbet advised that it had opened a licensed interactive wagering service account for the Complainant on 8 August 2018. While Palmerbet submitted that the Complainant had excluded directly with Palmerbet on several occasions, the ACMA is of the view that the Complainant continued to hold a licensed interactive wagering service account with Palmerbet and held this account when they became a registered individual on the NSER.

Did the Complainant have any outstanding or pending bets attributable to the provision of a licensed interactive wagering service by the provider?

99. Palmerbet confirmed in Submission 2 that, at the time the Complainant became a registered individual, their wagering account had:

> no outstanding or pending bets attributable to the provision of a licensed interactive wagering service by Palmerbet; and

> a nil credit balance.

100. Accordingly, the ACMA is of the view that the Complainant's wagering account did not have any outstanding or pending bets attributable to the provision of a licensed interactive wagering service by Palmerbet. Therefore, the obligations under section 61MB apply.

Did Palmerbet close the account and pay any credit balance as soon as practicable after the Complainant became a registered individual?

Palmerbet's processes for checking the NSER and closing accounts

101. Submission 1 outlined when Palmerbet submits a section 61NC request in respect of a current or prospective customer, including:

> [pre-emptively, including in relation to account opening.] […]

> [continuously based on certain customer activity triggers.] […]

> [retrospectively in relation to 'accounts that are inactive or dormant'. Palmerbet submitted that it increased the frequency of this check approximately 1 year ago.[26]] […]

102. Palmerbet submitted that it had 'a system of automated and manual controls to ensure the immediate closure of Licensed Accounts belonging to individuals who became registered under the NSER.' Palmerbet outlined that this system involved the following:

Where a match against the NSER is detected, the customer's account is automatically flagged and the account status in the back-end … is changed from "Active" to "Inactive" without delay. This categorisation means that the customer's access to betting functions is immediately removed, the customer is logged out, the customer's wallet is frozen, the account is closed, and the account is marked as permanently ineligible for wagering functionality.'[27]

[26] Submission 1, pg 6, paragraph 24.
[27] Submission 1, pg 11, paragraph 47.

How soon after registering did Palmerbet identify the Complainant as a registered individual and close their account?

103. As noted in paragraph 24, Palmerbet was first notified by the Register operator that the Complainant was a registered individual at 3:44:38 PM (AEDT) on 22 February 2025.

104. Palmerbet submitted that the Complainant's wagering account 'was closed through its automatic processes immediately after detection at 3:44:38 PM on 22 February 2025'.[28]

105. Finding 1 established that Palmerbet had submitted section 61NC requests about the Complainant before this time, but that these requests had resulted in negative responses from the Register operator. As outlined, the ACMA is of the view that:

> these negative responses were attributable to information differences between the Complainant's Palmerbet wagering account and their NSER entry;

> these information differences included Palmerbet recording the incorrect date of birth for the Complainant and a shortened form of their first name;

> Palmerbet included an unverified and incorrect date of birth and a shortened form of the Complainant's first name in these section 61NC requests; and

> had Palmerbet verified and used the Complainant's correct date of birth and full first name in section 61NC requests, the Register operator would have informed Palmerbet that the Complainant was a registered individual.

What is "as soon as practicable"?

106. The applicable timeframe for the 'as soon as practicable' requirement does not impose a standard of perfection and may vary on a case-by-case basis. The ACMA has considered the practicalities and relevant circumstances when assessing compliance with this requirement.

107. NSER records demonstrate that Palmerbet's first request under section 61NC about the Complainant after they had become a registered individual was at 3:19 pm (AEST) on 6 September 2023. This was around 4 days after the Complainant had become a registered individual, on 2 September 2023.

108. The ACMA is of the view that, had Palmerbet taken reasonable precautions and exercised due diligence to ensure that it had accurate information about the Complainant, this first section 61NC request would have resulted in a positive match and the Register operator would have notified Palmerbet that the Complainant was a registered individual at 3:19 pm (AEST) on 6 September 2023. Palmerbet submitted that the Complainant's wagering account had a nil credit balance at this time.

109. As outlined in paragraph 102, Palmerbet has provided evidence that it had processes to immediately close a wagering account after being notified by the Register operator that a customer was a registered individual. Palmerbet has also submitted that it was able to close the Complainant's wagering account 'immediately' after being notified by the Register operator that they were a registered individual on 22 February 2025 as referenced in paragraph 104.

110. The ACMA acknowledges that there may have been particular circumstances that affected how soon it was practicable for Palmerbet to have been able to close the Complainant's wagering account. However, the ACMA does not consider that any such factors would have meant that the Complainant's wagering account could not

[28] Submission 1, pg 17, paragraph 71.

have been closed within 24 hours of Palmerbet's request to the Register operator on 6 September 2023, that would have resulted in the Register operator informing Palmerbet that the Complainant was a registered individual had Palmerbet used accurate information about the Complainant.

111. Accordingly, the ACMA is of the view that it would have been practicable for Palmerbet to have closed the Complainant's wagering account by 3:19 pm (AEST) on 7 September 2023 – within 24 hours of the request to the Register operator on 6 September 2023 given the nature of Palmerbet's process to automatically and instantly close accounts identified to belong to registered individuals. Therefore, the ACMA is of the view that Palmerbet did not close the Complainant's licensed interactive wagering service account, that did not have any pending or outstanding bets, as soon as practicable after the Complainant became a registered individual.

Did Palmerbet take reasonable precautions and exercise due diligence to avoid the contraventions?

112. As outlined in paragraph 22, Palmerbet argued that it took reasonable precautions and exercised due diligence to avoid contravening subsection 61KA(3) in relation to the Complainant.

113. For the reasons discussed in paragraphs 36 – 60, the ACMA is of the view that Palmerbet did not take the same reasonable precautions and due diligence for the Complainant as it had taken with its new customers, [the reverification cohort], and customers who were not on a break at the time that the August 2023 email was sent.

Conclusion

114. On the basis that the ACMA does not consider the exception in subsection 61MB(7) applies, the ACMA has found that Palmerbet did not close the Complainant's interactive wagering service account as soon as practicable after they became a registered individual.

115. The obligation to close the account was an ongoing one, pursuant to subsections 93(1) and 93(2) of the RPA, and a separate contravention occurs each day where an IWP fails to close a customer's wagering account beyond when it was reasonably practicable to close the account.

116. Accordingly, the ACMA has found that this conduct constitutes 535 breaches of subsection 61MB(5) by Palmerbet, as it did not close the Complainant's account as soon as practicable after they became a registered individual. This represents a breach for each day that the account remained open from the date it became practicable for Palmerbet to close the account.

Finding 4 – No breach: Licensed interactive wagering service providers must promote the NSER (Section 61JP)

Regulatory obligation

117. Under section 61JP, an IWP is required to promote the NSER in accordance with rules specified by the ACMA. On 4 July 2022, the ACMA made the Register Rules.

118. Subsection 25(3) of the Register Rules requires that an IWP promote the NSER in regulated electronic messages by including, at a minimum (see subsection 25(1)):

a) a reference to 'BetStop';

b) a statement to the effect that BetStop is the national self-exclusion register; and

c) a hyperlink to the BetStop website.

119. Subsection 25(4) of the Register Rules provides that where a regulated electronic message is sent via SMS message, it will comply with the subsection 25(3) requirements if it contains a hyperlink to a separate webpage that includes the required information.

<u>Did Palmerbet engage in conduct that contravenes the Register rules?</u>

120. Finding 2 established that Palmerbet sent 34 regulated electronic messages to the Complainant.

121. The ACMA is of the view that the 34 regulated electronic messages included the information required by subsection 25(3) of the Register Rules.

122. As such, ACMA is of the view that Palmerbet complied with section 61JP(5).

Conclusions

123. The ACMA finds that Palmerbet:

> Has contravened subsection 61KA(3) on 18 occasions in relation to the provision of licensed interactive wagering services to a registered individual.

> Has not contravened subsection 61LA(4) by sending regulated electronic messages to an electronic address of a registered individual.

> Has contravened subsection 61MB(5) on 535 occasions by failing to close the licensed interactive wagering account of a registered individual that had no outstanding or pending bets within a reasonably practicable timeframe.

> Has not contravened section 61JP(5) regarding promotion of the NSER in regulated electronic messages it sent to customers.

Attachments

Attachment A – Extract of relevant provisions

Attachment A

Key provisions of the IGA

***Interactive Gambling Act 2001* Section 61JP Licensed interactive wagering service providers must promote the National Self-exclusion Register etc**

(1) The Register rules may require licensed interactive wagering service providers to take specified action for the purposes of promoting the National Self-exclusion Register to their customers.

(2) The Register rules may require licensed interactive wagering service providers to take specified action directed towards ensuring that their customers are aware of, and can readily access, the following:

(a) the website of the National Self-exclusion Register;

(b) if there is an app for the National Self-exclusion Register—that app.

Offence

(3) A person commits an offence if:

(a) the person is a licensed interactive wagering service provider; and

(b) the person engages in conduct; and

(c) the person’s conduct contravenes Register rules made for the purposes of subsection (1) or (2).

Penalty: 120 penalty units.

(4) A person who contravenes subsection (3) commits a separate offence in respect of each day (including a day of conviction for the offence or any later day) during which the contravention continues.

Civil penalty provision

(5) A licensed interactive wagering service provider must not contravene Register rules made for the purposes of subsection (1) or (2).

Civil penalty: 180 penalty units.

(6) A person who contravenes subsection (5) commits a separate contravention of that provision in respect of each day during which the contravention occurs (including the day the relevant civil penalty order is made or any later day).

Exception

(7) Subsections (3) and (5) do not apply if the contravention occurred in circumstances prescribed by the Register rules.

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

Note 2: In proceedings for a civil penalty order for a contravention of subsection (5), a defendant bears an evidential burden in relation to the matter in this subsection (see section 96 of the Regulatory Powers Act).

Offence—extended geographical jurisdiction

(8) Section 15.4 of the *Criminal Code* (extended geographical jurisdiction—category D) applies to an offence against subsection (3).

Interactive Gambling Act 2001 Section 61KA Prohibition of the provision of licensed interactive wagering services to registered individuals

Offence

(1) A person commits an offence if:

(a) the person is a licensed interactive wagering service provider; and

(b) the person provides a licensed interactive wagering service to an individual; and

(c) the individual is a registered individual.

Penalty: 500 penalty units.

(2) A person who contravenes subsection (1) commits a separate offence in respect of each day (including a day of conviction for the offence or any later day) during which the contravention continues.

Civil penalty provision

(3) A licensed interactive wagering service provider must not provide a licensed interactive wagering service to a registered individual.

Civil penalty: 750 penalty units.

(4) A person who contravenes subsection (3) commits a separate contravention of that provision in respect of each day during which the contravention occurs (including the day the relevant civil penalty order is made or any later day).

Exception

(5) Subsections (1) and (3) do not apply if the licensed interactive wagering service provider took reasonable precautions, and exercised due diligence, to avoid the contravention.

Note 1: The Register operator must, if requested to do so by a licensed interactive wagering service provider, inform the provider whether an individual is a registered individual (see section 61NC).

Note 2: In a prosecution for an offence against subsection (1), a defendant bears an evidential burden in relation to the matter in this subsection (see subsection 13.3(3) of the *Criminal Code)*.

Note 3: In proceedings for a civil penalty order for a contravention of subsection (3), a defendant bears an evidential burden in relation to the matter in this subsection (see section 96 of the Regulatory Powers Act).

Offence—extended geographical jurisdiction

(6) Section 15.4 of the *Criminal Code* (extended geographical jurisdiction—category D) applies to an offence against subsection (1).

Interactive Gambling Act 2001 Section 61LA Regulated electronic message must not be sent to an electronic address of a registered individual

Offence—knowledge of provider

(1) A person commits an offence if:

(a) the person is a licensed interactive wagering service provider; and

(b) the person sends, or causes to be sent, a regulated electronic message to an electronic address; and

(c) the electronic address is known by the person to be an electronic address of a registered individual.

Penalty: 120 penalty units.

Civil penalty provision—knowledge of provider

(2) A licensed interactive wagering service provider must not send, or cause to be sent, a regulated electronic message to an electronic address that is known by the provider to be an electronic address of a registered individual.

Civil penalty: 180 penalty units.

Offence—recklessness of provider

(3) A person commits an offence if:

(a) the person is a licensed interactive wagering service provider; and

(b) the person sends, or causes to be sent, a regulated electronic message to an electronic address; and

(c) the electronic address is an electronic address of a registered individual; and

(d) the person is reckless as to the fact that the electronic address is an electronic address of the registered individual.

Penalty: 60 penalty units.

Civil penalty provision—recklessness of provider

(4) A licensed interactive wagering service provider must not send, or cause to be sent, a regulated electronic message to an electronic address if:

(a) the electronic address is an electronic address of a registered individual; and

(b) the person is reckless as to the fact that the electronic address is an electronic address of the registered individual.

Civil penalty: 90 penalty units.

(5) For the purposes of subsection (4), a person is ***reckless*** as to the fact mentioned in paragraph (b) of that subsection if:

(a) the person is aware of a substantial risk that the fact exists; and

(b) having regard to the circumstances known to the person, it is unjustifiable to take the risk.

Exception

(6) Subsections (1), (2), (3) and (4) do not apply if the licensed interactive wagering service provider took reasonable precautions, and exercised due diligence, to avoid the contravention.

Note 1: The Register operator must, if requested to do so by a licensed interactive wagering service provider, inform the provider whether an individual is a registered individual (see section 61NC).

Note 2: In a prosecution for an offence against subsection (1), a defendant bears an evidential burden in relation to the matter in this subsection (see subsection 13.3(3) of the *Criminal Code)*.

Note 3: In proceedings for a civil penalty order for a contravention of subsection (2) or (4), a defendant bears an evidential burden in relation to the matter in this subsection (see section 96 of the Regulatory Powers Act).

Offences—extended geographical jurisdiction

(7) Section 15.4 of the *Criminal Code* (extended geographical jurisdiction—category D) applies to an offence against subsection (1) or (3).

Interactive Gambling Act 2001 Section 61MB Closure of a licensed interactive wagering service account held by a registered individual—no outstanding or pending bets

Offence

(1) If:

(a) an individual becomes a registered individual; and

(b) immediately before becoming a registered individual:

(i) the individual had a licensed interactive wagering service account with a licensed interactive wagering service provider; and

(ii) the individual did not have any outstanding or pending bets that are attributable to the provision of a licensed interactive wagering service by the provider;

then:

(c) if, immediately before becoming a registered individual, the individual did not owe any debts to the provider that could lawfully be recovered by way of deduction from the account—the provider must, as soon as practicable after the individual becomes a registered individual:

(i) close the account; and

(ii) if the account has a credit balance—pay the individual an amount equal to the credit balance; and

(d) if, immediately before becoming a registered individual, the individual owed one or more debts to the provider that could lawfully be recovered by way of deduction from the account—the provider must, as soon as practicable after the individual becomes a registered individual:

(i) close the account; and

(ii) if the account would have a credit balance if the total amount of those debts were deducted from the account—pay the individual an amount equal to the difference between the balance of the account and the total amount of those debts; and

(e) if the individual ceases to be a registered individual before the closure of the account—the provider must ensure that the account is not used in relation to the provision, or prospective provision, of one or more licensed interactive wagering services to the individual after the cessation; and

(f) if the account has been closed—the provider must not reopen, reactivate, or reinstate the account.

(2) Paragraph (1)(e) does not prevent the licensed interactive wagering service provider from opening a new licensed interactive wagering service account for the individual if the individual ceases to be a registered individual.

(3) A person commits an offence if:

(a) the person is subject to a requirement under subsection (1); and

(b) the person engages in conduct; and

(c) the person's conduct breaches the requirement.

Penalty: 120 penalty units.

(4) Subsection (3) does not apply if the person took reasonable precautions, and exercised due diligence, to avoid the contravention.

Note 1: The Register operator must, if requested to do so by a licensed interactive wagering service provider, inform the provider whether an individual is a registered individual (see section 61NC).

Note 2: In a prosecution for an offence against subsection (3), a defendant bears an evidential burden in relation to the matter in this subsection (see subsection 13.3(3) of the *Criminal Code)*.

Civil penalty provision

(5) If:

(a) an individual becomes a registered individual; and

b) immediately before becoming a registered individual:

(i) the individual had a licensed interactive wagering service account with a licensed interactive wagering service provider; and

(ii) the individual did not have any outstanding or pending bets that are attributable to the provision of a licensed interactive wagering service by the provider;

then:

(c) if, immediately before becoming a registered individual, the individual did not owe any debts to the provider that could lawfully be recovered by way of deduction from the account—the provider must, as soon as practicable after the individual becomes a registered individual:

(i) close the account; and

(ii) if the account has a credit balance—pay the individual an amount equal to the credit balance; and

(d) if, immediately before becoming a registered individual, the individual owed one or more debts to the provider that could lawfully be recovered by way of deduction from the account—the provider must, as soon as practicable after the individual becomes a registered individual:

(i) close the account; and

(ii) if the account would have a credit balance if the total amount of those debts were deducted from the account—pay the individual an amount equal to the difference between the balance of the account and the total amount of those debts; and

(e) if the individual ceases to be a registered individual before the closure of the account—the provider must ensure that the account is not used in relation to the provision, or prospective provision, of one or more licensed interactive wagering services to the individual after the cessation; and

(f) if the account has been closed—the provider must not reopen, reactivate, or reinstate the account.

Civil penalty: 180 penalty units.

(6) Paragraph (5)(e) does not prevent the licensed interactive wagering service provider from opening a new licensed interactive wagering service account for the individual if the individual ceases to be a registered individual.

(7) Subsection (5) does not apply if the licensed interactive wagering service provider took reasonable precautions, and exercised due diligence, to avoid the contravention.

Note 1: The Register operator must, if requested to do so by a licensed interactive wagering service provider, inform the provider whether an individual is a registered individual (see section 61NC).

Note 2: In proceedings for a civil penalty order for a contravention of subsection (5), a defendant bears an evidential burden in relation to the matter in this subsection (see section 96 of the Regulatory Powers Act).

Offence—extended geographical jurisdiction

(8) Section 15.4 of the *Criminal Code* (extended geographical jurisdiction—category D) applies to an offence against subsection (3).

Debt recovery not affected

(9) To avoid doubt, the closure of a licensed interactive wagering service account under this section does not prevent the recovery of a debt owed by an individual to a licensed interactive wagering service provider.

Acquisition of property

(10) The provisions of this section have no effect to the extent (if any) to which their operation would result in an acquisition of property (within the meaning of paragraph 51(xxxi) of the Constitution) from a person otherwise than on just terms (within the meaning of that paragraph).