



Interactive Gambling (Moratorium) Act 2000

No. 151, 2000

**An Act about interactive gambling, and for related
purposes**

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Interactive Gambling (Moratorium) Act 2000

No. 151, 2000

An Act about interactive gambling, and for related purposes

[Assented to 21 December 2000]

The Parliament of Australia enacts:

Part 1—Introduction

1 Short title

This Act may be cited as the *Interactive Gambling (Moratorium) Act 2000*.

2 Commencement

This Act commences on the day after the day on which it receives the Royal Assent.

3 Simplified outline

The following is a simplified outline of this Act:

- This Act prohibits a person from providing an interactive gambling service unless the person was already providing the service before 19 May 2000.
- The prohibition ceases at the end of 18 May 2001.

4 Definitions

In this Act, unless the contrary intention appears:

Australia, when used in a geographical sense, includes the external Territories.

bet includes wager.

broadcasting service means a broadcasting service (as defined by the *Broadcasting Services Act 1992*) provided in Australia.

broadcasting services bands has the same meaning as in the *Broadcasting Services Act 1992*.

business includes a venture or concern in trade or commerce, whether or not conducted on a regular, repetitive or continuous basis.

Chapter 8 agreement has the same meaning as in the Corporations Law.

content service means a content service (as defined by the *Telecommunications Act 1997*) provided using a listed carriage service.

datacasting licence has the same meaning as in the *Broadcasting Services Act 1992*.

datacasting service means a service that delivers content:

- (a) whether in the form of text; or
- (b) whether in the form of data; or
- (c) whether in the form of speech, music or other sounds; or
- (d) whether in the form of visual images (animated or otherwise); or
- (e) whether in any other form; or
- (f) whether in any combination of forms;

to persons having equipment appropriate for receiving that content, where:

- (g) the delivery of the service uses the broadcasting services bands; and
- (h) the service is provided in Australia under a datacasting licence.

futures contract has the same meaning as in the Corporations Law.

gambling service means:

- (a) a service for the placing, making, receiving or acceptance of bets; or

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- (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 else 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.

game includes an electronic game.

interactive gambling service has the meaning given by section 5.

Internet carriage service means a listed carriage service that enables end-users to access the Internet.

listed carriage service has the same meaning as in the *Telecommunications Act 1997*.

lottery includes an electronic lottery.

option contract has the same meaning as in Chapter 7 of the Corporations Law.

relevant agreement has the same meaning as in the Corporations Law.

standard telephone service has the same meaning as in the *Telecommunications (Consumer Protection and Service Standards) Act 1999*.

telephone betting service means a gambling service provided on the basis that dealings with customers are wholly by way of voice calls made using a standard telephone service.

ticket includes an electronic ticket.

voice call means:

- (a) a voice call within the ordinary meaning of that expression; or
- (b) a call that involves a recorded or synthetic voice; or
- (c) if a call covered by paragraph (a) or (b) 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 either of those paragraphs; whether or not the customer responds by way of pressing buttons on a telephone handset or similar thing.

5 Interactive gambling services

- (1) For the purposes of this Act, an **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; and
 - (c) any of the following conditions is satisfied:
 - (i) the service is provided in the course of carrying on a business in Australia;
 - (ii) the central management and control of the service is in Australia;
 - (iii) the service is provided through an agent in Australia.
- (2) Subsection (1) has effect subject to subsection (3).

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Excluded services

- (3) For the purposes of this Act, none of the following services is an ***interactive gambling service***:
- (a) a telephone betting service;
 - (aa) a service to the extent to which it relates to betting on, or on a series of, any or all of the following:
 - (i) a horse race;
 - (ii) a harness race;
 - (iii) a greyhound race;
 - (iv) a sporting event;
 - (ab) a service to the extent to which it relates to betting on:
 - (i) an event; or
 - (ii) a series of events; or
 - (iii) a contingency;that is not covered by paragraph (aa);
 - (b) a service to the extent to which it relates to the entering into of contracts that, under the Corporations Law, are exempt from a law relating to gaming or wagering (see subsection (4));
 - (c) an exempt service (see subsection (5)).
- (3A) Paragraphs (3)(aa) and (ab) do not apply to a service to the extent to which:
- (a) 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 the event; or
 - (b) the 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 the event.
- (3B) Paragraph (3)(ab) does not apply to a service to the extent to which the service is:
- (a) a service for the conduct of a lottery; or
 - (b) a service for the supply of lottery tickets; or
 - (c) a service relating to betting on the outcome of a lottery; or

- (d) a service for the conduct of a game, where:
 - (i) the game is played for money or anything else 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
- (e) a service relating to betting on the outcome of a game of chance or of mixed chance and skill.

Contracts exempt under the Corporations Law

- (4) A reference in this section to ***contracts that, under the Corporations Law, are exempt from a law relating to gaming or wagering*** is a reference to any of the following:
 - (a) option contracts covered by subsection 778(1) of the Corporations Law;
 - (b) relevant agreements covered by subsection 778(2) of the Corporations Law;
 - (c) futures contracts covered by subsection 1141(1) of the Corporations Law;
 - (d) Chapter 8 agreements covered by subsection 1141(2) of the Corporations Law.

Exempt services

- (5) The Minister may, by writing, determine that each service included in a specified class of services is an ***exempt service*** for the purposes of this section.
- (6) A determination under subsection (5) has effect accordingly.
- (7) A determination under subsection (5) is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

6 Extended meaning of *use*

Unless the contrary intention appears, a reference in this Act to the ***use*** of a thing is a reference to the use of the thing either:

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- (a) in isolation; or
- (b) in conjunction with one or more other things.

7 Crown to be bound

- (1) This Act binds the Crown in each of its capacities.
- (2) This Act does not make the Crown liable to be prosecuted for an offence.
- (3) The protection in subsection (2) does not apply to an authority of the Crown.

8 Extension to external Territories

This Act extends to every external Territory.

9 Extra-territorial application

Unless the contrary intention appears, this Act extends to acts, omissions, matters and things outside Australia.

Part 2—Moratorium on the provision of new interactive gambling services

10 Offence relating to the provision of interactive gambling services

- (1) A person is guilty of an offence if the person intentionally provides an interactive gambling service.

Penalty: 2,000 penalty units.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

- (2) A person who contravenes subsection (1) is guilty of a separate offence in respect of each day (including a day of a conviction for the offence or any later day) during which the contravention continues.
- (3) This section ceases to have effect at the end of 18 May 2001.

11 Exemption for interactive gambling services in existence before 19 May 2000

In a prosecution for an offence against section 10 in relation to the provision of a particular interactive gambling service (the **current service**) during a particular day, it is a defence if the defendant proves that:

- (a) on a particular day before 19 May 2000, the defendant provided an interactive gambling service (the **pre-19 May 2000 service**); and
- (b) the current service is the same or substantially the same as the pre-19 May 2000 service; and
- (c) the current service is provided under the same name as the pre-19 May 2000 service; and
- (d) the pre-19 May 2000 service had at least one arm's length paying customer.

Note: A defendant bears a legal burden in relation to the matters mentioned in this section (see section 13.4 of the *Criminal Code*).

Part 3—Miscellaneous

12 Application of *Criminal Code*

Chapter 2 of the *Criminal Code* applies to an offence against this Act.

13 Service of summons or process on foreign corporations—criminal proceedings

- (1) This section applies to a summons or process in any criminal proceedings under this Act, where:
 - (a) the summons or process is required to be served on a body corporate incorporated outside Australia; and
 - (b) the body corporate does not have a registered office or a principal office in Australia; and
 - (c) the body corporate has an agent in Australia.
- (2) Service of the summons or process may be effected by serving it on the agent.
- (3) Subsection (2) has effect in addition to section 28A of the *Acts Interpretation Act 1901*.

Note: Section 28A of the *Acts Interpretation Act 1901* deals with the service of documents.

- (4) In this section:

criminal proceeding includes a proceeding to determine whether a person should be tried for an offence.

14 Operation of State and Territory laws

This Act is not intended to exclude or limit the operation of a law of a State or Territory to the extent that that law is capable of operating concurrently with this Act.

15 Regulations

The Governor-General may make regulations prescribing matters necessary or convenient to be prescribed for carrying out or giving effect to this Act.

*[Minister's second reading speech made in—
Senate on 17 August 2000
House of Representatives on 7 December 2000]*

(138/00)