



# **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**

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## **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*.

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## 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
- (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.

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**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).

*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;

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- 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:

- (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.

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

(138/00)