

Response to Legislative Scrutiny Committee Questions - Serial 59

Consultation

1.

a. What consultation was undertaken with non-industry stakeholders?

The technical review was deliberately limited in scope and focused on how the Act operates in practice. Consultation was undertaken with stakeholders directly operating under the Act to identify operational improvements.

Broader consultation, including with non-industry stakeholders, is built into the mandated three-year evaluation of the Act.

b. What feedback was received from consultation that was not included in this Bill?

The majority of feedback from stakeholders has been reflected in the proposed amendments.

Some feedback raised broader policy matters beyond the scope of this technical review. These have been captured and will inform the comprehensive three-year evaluation of the Act.

Wagering Commission and Director of Racing and Wagering

2.

a. Can you explain the rationale for the Commission not having a gambling harm minimisation function?

The Commission is expressly empowered to undertake gambling harm minimisation functions under section 16(j) of the Act.

Harm minimisation is also a stated object of the Act (section 3(d)).

The Commission's role in regulating wagering includes oversight of compliance with legislative requirements, licence conditions and codes of practice, which together support harm minimisation.

b. Can you explain the rationale for the Director not being provided the power to direct licensees to implement consumer protection and harm minimisation measures related to the racing industry, despite the Commission having this power in the current Act?

The Director's role is focused on the racing industry.

Wagering regulation, including harm minimisations measures, sits with the Commission, which regulates wagering licensees.

This ensures clear separation of functions and responsibilities across the system.

3.

a. Can you further explain the rationale for providing that all powers and functions may be delegated, instead of adding only those that were limiting the efficiency of the Commission?

This amendment aligns with the delegation framework under the former *Racing and Betting Act 1983* and supports more efficient administration.

It enables routine and operational matters to be determined by delegates, allowing the Commission to focus on more complex issues and respond promptly to complaints.

The Commission retains full discretion over which powers and functions are delegated.

Delegates operate within established governance and accountability frameworks and may refer matters back to the Commission where appropriate.

b. Was consideration given to requiring delegations to be made in writing, as is the case in some other pieces of NT legislation (for example, delegation of the Teacher Registration Board's powers

to the Director of the Board)? Would there be any risks or benefits to requiring delegation to be written?

In practice, all delegations are made in writing and operate within established governance frameworks.

c. What limits, if any, will apply to the exercise of this delegation power in practice?

Delegation operates within established governance and accountability frameworks.

The Commission determines the scope of delegations and retains oversight of delegated functions.

4.

a. Would 19C(3) allow members of the Commission to accept gifts or hospitality without declaring them?

No.

Commission members remain subject to existing obligations to declare gifts and hospitality.

Section 19C(3) does not alter these requirements.

b. Would 19C(4) provide that a Commission decision is not invalidated if a member did not declare an interest deliberately, rather than by oversight or mistake? What are the risks of deliberate and/or significant non-disclosure not invalidating decisions of the Commission?

The provision ensures that decisions are not invalidated on procedural grounds, supporting regulatory certainty.

Any failure to declare an interest is addressed through governance mechanisms, including potential removal from office.

Decisions of the Commission are made by a quorum, which provides an additional safeguard.

c. Can you explain the rationale for not prohibiting members of the Commission from having accounts with wagering operators that are licensed in other jurisdictions, even though they may operate in the NT and take bets on racing held in the NT, especially considering that the ES explains that members of the Commission may not own a racing animal anywhere in Australia because of the 'intrinsic link between racing and wagering'?

The Commission members are subject to a code of conduct that requires identification, declaration and management of any potential conflicts.

The Commission regulates Northern Territory wagering licensees and does not regulate operators in other jurisdictions.

These arrangements ensure transparency and accountability in the management of potential conflicts.

d. Can you explain the rationale for not requiring that the Director be similarly required to divest of potential wagering and racing conflicts, especially considering the Director may be delegated any of the Commission's wagering powers and functions?

The Director operates within the public sector governance framework, which includes strict obligations to declare and manage conflicts of interest.

Any delegated functions are exercised within that framework.

e. Were any additional conflict-of-interest measures considered but not incorporated into the Bill and, if so, what measures? Was there any consideration of a public record of conflicts-of-interest for members of the Commission?

The amendments are supported by strengthened governance processes, including updated policies and procedures for declaring and managing interests, maintaining registers, and supporting transparency.

These arrangements are consistent with other statutory bodies and balance transparency with privacy considerations.

5.

a. Can you explain the rationale for the different cool-off periods for members of the Commission and the Director?

Commission members are involved in collective decision-making and have exposure to commercially sensitive information across a broad range of regulatory matters.

While the Director supports these processes and may be delegated functions from time to time, the Director's role is exercised within the public sector governance framework and does not carry the same level of ongoing exposure to, or influence over, sensitive commercial information as the Commission's collective decision-making role.

The longer cooling-off period for Commission members reflects this higher level of exposure.

Race control bodies

6.

a. Can you provide the rationale for eligibility criteria being established by Gazette notice rather than in the Bill?

Gazetted allows eligibility criteria to be amended more efficiently than by legislative amendment, enabling timely updates where required.

7.

a. Where is it intended that the Charter will be published?

The Charter will be published on the race control body's website and on the Department's website.

b. Will the Charter be tabled in the Legislative Assembly?

There is no legislative requirement to table the Charter.

The charter will be publicly available.

c. What consultation will be undertaken prior to the charter being made?

The Charter will be publicly available and open to feedback, supporting transparency in its development.

Complaints, investigations, and enforcement

8.

a. Can you explain the rationale and evidence behind the 60-day limit?

The previous timeframe was found to be insufficient to allow matters to be resolved at the licensee level.

Extending the timeframe supports resolution before escalation and reduces the need for formal disputes.

b. Was any consideration given to removing the two-year timeframe as has been done in Victoria, noting that four complaints were not able to be accepted because of this time limit in 2023-24? If not, why not?

The two-year period started when the legislation was enacted on 1 July 2024. The timeframe provides certainty and supports timely resolution of complaints.

This will be reviewed as part of the mandated three-year evaluation of the Act.

c. What are the standard procedures for the Director or Commission when they receive a complaint?

The Director assesses complaints and may accept them for investigation, in which case the Director investigates and prepares a report.

The Commission then considers the report and determines the appropriate outcome in accordance with Part 8, Divisions 1 to 3 of the Act.

9.

a. When the Director or Commission consider appropriate disciplinary action, are there any requirements to consider prior breaches or repeated evidence of non-compliance with obligations under the Act? If not, can you explain the rationale for this?

Yes. Confirmed breaches and disciplinary actions are recorded and taken into account in future compliance decisions.

b. What mechanisms exist for monitoring and scrutinising the Commission's handling of complaints?

Since 1 July 2024, the Commission reports through its annual report made available on the website. The Commission is responsible to the Minister.

Specified Commission decisions are reviewable by the Northern Territory Civil and Administrative Tribunal (NTCAT). Reviewable decisions are listed in section 239 of the Act.

c. Was consideration given to aligning monetary and non-monetary penalties and disciplinary action to those provided for by other jurisdictions? If not, why not?

Penalty settings were assessed as appropriate for the Northern Territory context, noting its role as a leading jurisdiction for online wagering.

d. If a licensee is found to have obtained funds in breach of the Act, are they required to return these funds to the consumer? If not, why not?

Under Section 224(2)(c) the Commission has the power to declare a wager void where it is in contravention of the *Racing and Wagering Act 2024*.

Where a wager is declared void, a licensee must refund the amount.

10.

a. What legislative authority provides NTCAT jurisdiction to review a decision made under section 222A?

The *Racing and Wagering Act 2024* is listed in Part 3 of the Schedule to the Northern Territory Civil and Administrative Tribunal Regulations 2014 as an Act under which reviewable decisions may be made.