



# Regulation of Bookmakers Policy Paper



Government of South Australia  
Department of Treasury  
and Finance

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## GLOSSARY

<b>Act</b>	<i>Authorised Betting Operations Act 2000</i>
<b>CBS</b>	Consumer and Business Services
<b>Commissioner</b>	Liquor and Gambling Commissioner
<b>DTF</b>	Department of Treasury and Finance
<b>GRSA</b>	Greyhound Racing South Australia
<b>HRSA</b>	Harness Racing South Australia
<b>IGA</b>	Independent Gambling Authority
<b>Issues Paper</b>	Regulation of Bookmakers – Issues Paper
<b>Minister</b>	Minister for Gambling
<b>OLGC</b>	Office of the Liquor and Gambling Commissioner (now known as Consumer and Business Services)
<b>Regulations</b>	<i>Authorised Betting Operations Regulations 2001</i>
<b>SABL</b>	South Australian Bookmakers’ League
<b>TRSA</b>	Thoroughbred Racing South Australia

# 1 Introduction

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## 1.1 Introduction

This Policy Paper outlines the Government's position in relation to proposed changes to the *Authorised Betting Operations Act 2000* (the Act) first raised by the South Australian Bookmakers' League (SABL) in mid 2007.

It takes account of the responses received to the Issues Paper publicly released in March 2008. Responses were received from:

- Harness Racing SA (HRSA);
- Office of the Liquor and Gambling Commissioner (OLGC);
- Independent Gambling Authority (IGA);
- Mr Syd McDonald;
- Office for Racing;
- South Australian Bookmakers' League (SABL);
- SA TAB; and
- Thoroughbred Racing South Australia (TRSA).

This Policy Paper provides the Government response to each of the questions raised in the Issues Paper. This Policy Paper follows the same structure as the Issues Paper and provides a response under the following sections:

- licensing;
- permits;
- rules;
- enforcement and compliance;
- unclaimed winnings; and
- betting information service.

Each section on the functions outlined above will be structured as follows:

- **Background** – outlines the questions raised in the Issues Paper with regards to the regulatory requirements for the particular function under the Act and the Regulations.
- **Questions** – a discussion of the responses received from stakeholders to the questions raised in the Issues Paper and the South Australian Government's conclusion.
- **Policy Position** – a summary of the South Australian Government's policy position.

The guiding principles that assisted the Government's consideration of the policy positions adopted are:

- regulatory consistency across all gambling activities;
- elimination of unnecessary duplication; and
- probity and responsible gambling.

## 1.2 Summary of Policy Positions

The table below summarises the policy positions reached in this Policy Paper.

Area	Positions
<b>Licensing</b>	<p>The South Australian Government proposes to amend the <i>Authorised Betting Operations Act 2000</i> to insert a criminal intelligence provision and prohibit inspectors, the Liquor and Gambling Commissioner, members and the secretary of the Independent Gambling Authority from engaging in gambling with a licensee.</p> <p>The Liquor and Gambling Commissioner has agreed to use discretionary powers to extend the term of the licence for bookmakers from the current one-year term up to a three-year term from 1 January 2013. Discretionary powers will be used to undertake risk-based financial assessments during the term of the licence.</p>
<b>Permits</b>	<p>The South Australian Government proposes to repeal the permit system contained in sections 54 to 59 of the <i>Authorised Betting Operations Act 2000</i>.</p> <p>Arrangements to field are to be subject to negotiations between racing clubs (or their agents) and bookmakers.</p> <p>To ensure compliance with the Government's Approved Licensing Agreement with SA TAB, the Commissioner will impose licence conditions that limit when and where bookmakers can accept bets.</p>
<b>Rules</b>	<p>The regulatory functions associated with the <i>Bookmakers Licensing Rules 2000</i> will continue to be undertaken by Government agencies.</p> <p>The Independent Gambling Authority has agreed to:</p> <ul style="list-style-type: none"> <li>• undertake a comprehensive assessment of the <i>Bookmakers Licensing Rules 2000</i> with a view to reducing the administrative burden on bookmakers; and</li> <li>• seek submissions from bookmakers, racing clubs and other interested stakeholders on the <i>Bookmakers Licensing Rules</i>.</li> </ul> <p>It is proposed to amend the <i>Authorised Betting Operations Act 2000</i> to simplify the operation of section 62(1)(b) in relation to bookmaker securities. Section 62(1)(b) should refer to any bookmaker, not only an applicant for a bookmaker's licence.</p>

Area	Positions
<b>Enforcement and Compliance</b>	The Independent Gambling Authority will retain the disciplinary function.
<b>Unclaimed Winnings</b>	The Department of Treasury and Finance and Consumer and Business Services (CBS – formerly the Office of the Liquor and Gambling Commissioner) have commenced discussions with bookmakers and the racing industry to determine whether unclaimed winnings arrangements administered by bookmakers are feasible. Claims would be allowed for a period of one year. Unclaimed winnings that have not been claimed within one year would be required to be forwarded to CBS for payment to the consolidated account.
<b>Betting Information Service</b>	There will be no change in the responsibility for the approval under section 61 of the <i>Authorised Betting Operations Act 2000</i> .

### 1.3 Next Steps

#### ***Liquor and Gambling Commissioner***

The Commissioner has agreed to use discretionary powers to extend the term of a bookmaker's licence up to three years as licences come up for renewal from 1 January 2013 and the licence condition requiring annual financial statements will be revoked.

The extension to the term of the licence will also apply to bookmaker agents' licences.

Together with the Department of Treasury and Finance, industry administered arrangements for unclaimed winnings will be considered and discussed with bookmakers and the racing industry.

#### ***Independent Gambling Authority***

The IGA has agreed to comprehensively assess the Bookmakers Licensing Rules with a view to reducing administrative burden on bookmakers.

This will occur when the Rules are next updated.

#### ***South Australian Government – Department of Treasury and Finance***

There are a number of amendments to the Act identified in this Policy Paper which will be incorporated into amendments of the Act and Regulations scheduled for the second half of 2013.



## 2 Licensing of Bookmakers

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### 2.1 Background

The Issues Paper asked the following questions about the licensing of bookmakers:

- **Question 1:** Is it appropriate to make the Act consistent with the *Gaming Machines Act 1992* in relation to criminal intelligence?
- **Question 2:** Does the licensing process create undue administrative burden, please provide examples?
- **Question 3:** Are there any other matters relating to licensing that could be changed to reduce administrative burden?

The following sections outline and discuss the responses to each of these questions.

### 2.2 Question 1: Criminal Intelligence

The Issues Paper asked the question:

*Is it appropriate to make the Act consistent with the Gaming Machines Act 1992 in relation to criminal intelligence?*

With respect to criminal intelligence, page 7 of the Issues Paper said:

*It is noted that the Act does not explicitly address criminal intelligence in the way the Gaming Machine Act 1992 does.*

*Consideration is being given to making the Act consistent with the Gaming Machine Act 1992 with respect to criminal intelligence. Specifically inclusion of sections like section 20 and section 12 of the Gaming Machine Act 1992 into the Act.*

There was support from stakeholders about making the Act consistent with the *Gaming Machines Act 1992* with respect to criminal intelligence. Some of those comments received are provided below.

Licensed bookmaker, Mr Syd McDonald said:

*I whole heartedly support inclusion in regulation of bookmakers of requirements consistent with Section 20 of the Gaming Machines Act 1992.*

*However, whilst I understand the arguments in favour of the provisions contained in Section 12 of the Gaming Machines Act, 1992 (to protect confidential information held by the police), I am concerned about the lack of the ability of an applicant to respond to allegations which may have been made against them which are incorrect, or may have been motivated by malice. If the Government is of the view to introduce regulation of bookmakers consistent with Section 12 of the Gaming Machines Act, 1992, I suggest that the Government give consideration to ensuring that persons against whom accusations are leveled have the opportunity to respond to those accusations to ensure that families' livelihoods are not stripped away based on wrong allegations.*

The SABL said:

*Does this question apply to new licence applicants? If so the League supports the proposal.*

*However, the League does not support any legislative amendment applying retrospectively to bookmakers that are currently licensed.*

If implemented, it is not proposed to require persons already licensed under the Act to make a new application for a licence. However, as section 12 of the *Gaming Machines Act 1992* indicates, criminal intelligence can be used by the regulator in relation to taking disciplinary action and/or the revocation of a licence. This would apply to all persons licensed under the Act.

The IGA said:

*The Authority is conscious that the criminal intelligence provisions in the Gaming Machines Act circumscribe certain general administrative law principles. Those principles afford a person 'natural Justice' in dealing with adverse matters in respect of the exercise of the statutory discretion.*

*These Gaming Machines Act provisions are uniform with other provisions applying in respect of the casino, the liquor industry and the security industry. Parliament was apparently satisfied that the enacting of these provisions was justified by the risks to the community.*

*The same risks apply, in principle, to other forms of gambling. These risks apply particularly with respect to the bookmaking industry, noting that most transactions are cash transactions and the industry participants are sole proprietors operating what are, relative to the gambling industry, small businesses.*

*The Authority would support the application of provisions similar to those in section 12 of the Gaming Machines Act to approvals of persons in respect of all of the licenses under the Authorised Betting Operations Act.*

The then Commissioner said:

*.... The Act makes no mention of SA Police in relation to the bookmaker licensing process.*

*This is not the only section in the Act that is inconsistent with the regulation of gaming machines and the casino. For example, the Gaming Machines Act provides that an inspector must not operate a gaming machine and the Casino Act states that an authorised officer must not engage in gambling at the casino. There is no prohibition on wagering by authorised officers (inspectors) and this should be considered.*

*I support amendments to ensure regulatory consistency.*

Submissions broadly supported making the Act consistent with the *Gaming Machines Act 1992* with respect to criminal intelligence. It is proposed to amend the Act to include consistent criminal intelligence provisions.

It is also proposed to amend the Act to prohibit inspectors, the Liquor and Gambling Commissioner, members and the secretary of the Independent Gambling Authority from gambling with a licensee under the Act.

## **2.3 Question 2: Administrative burden of licensing**

The Issues Paper asked the question:

*Does the licensing process create undue administrative burden, please provide examples?*

On the question about whether the licensing process creates undue administrative burden, a number of comments were received. Some of these comments are provided below.

Licensed bookmaker, Mr Syd McDonald said:

*In relation to the questions posed by the issues paper about the administrative burden involved in the licensing process, I would never consider anything to be an administrative burden whilst being associated with a "high risk" business. In my view, I support the existing annual financial statement information required by the commissioner under statutory declaration, which strengthens authenticity and legal obligations providing all information must be true and correct and more importantly consumer protection.*

The SABL said:

*The League acknowledges that the licensing of bookmakers will continue to be the responsibility of a State Government agency.*

*Every 12 months S.A. Bookmakers are required to renew their licence, although section 35(1) of the Authorised Betting Operations Act 2000 does not specify that the licence must be for a period of 12 months.*

*Bookmakers are asked to provide*

- *All bank balances*
- *Details of all investments*
- *Details re property with valuations*
- *Details re all liabilities*
- *Details re all credit cards*
- *Details re all account signatories*
- *A balance sheet has to be completed*

*For year ending 30/06/06 they had to provide*

- *Copies of all bank statements for every account for period previous 12 months*
- *Copies of all credit card statements for every credit card for period previous 12 months*

*Not-with-standing that all this information has to be furnished with proof, it then has to be presented by the bookmakers under oath via a Statutory Declaration.*

*The League submits that a licence should be for a period of not less than 5 years. For example a drivers licence is for several years and can be revoked at any time.*

The then Commissioner said:

*If the Act provided that the Commissioner had disciplinary powers, I could grant ongoing licences and take disciplinary action when appropriate thereby reducing the administrative burden on bookmakers regarding annual applications for renewal.*

The Office for Racing said:

*With respect to the licensing of bookmakers this Office is of the view that licences should be issued for a period greater than one year. It would seem reasonable that the period be at least 5 years. There are numerous examples of licences being granted beyond one year, eg. major betting operations licence, on-course totalisator licence and individual drivers' licence.*

The IGA said:

*The Authority is not aware of any example where the separation of licensing and disciplinary functions has given rise to a difficulty. The Authority would, of course, expedite processes in relation to any licensee who, in the opinion of the Liquor and Gambling Commissioner, posed an immediate threat to the integrity of the bookmaking industry.*

*The Authority does not agree that 12 month licensing is necessary. When the Authority was the licensing body for bookmakers, licences were renewed into a three year rolling cycle, thereby enabling time for detailed probity examinations prior to renewal.*

*The Authority also notes that, in the event that the Commissioner was concerned that a bookmaker should cease operations immediately, it is open to the Commissioner to cancel all permits.*

The argument about the possibility of the Commissioner using the permit system to suspend operations is summarised by licensed bookmaker, Mr Syd McDonald. Mr McDonald said:

*Essentially, a strong element of consumer protection and probity protection provided by the permit system is that if a bookmaker is acting inappropriately, the Government can for some appropriate period of time cease issuing permits to that individual. Commercial and other arrangements may well cloud decision making about those issues if the SABL issues permits, or if access to events is granted on a commercial basis.*

Submissions suggested that the Act did not impose an undue administrative burden. There was, however, some concern about the term of bookmakers' licences. This matter does not, however, require legislative amendment to resolve and the Commissioner will commence the grant of three year licences from 1 January 2013.

## **2.4 Question 3: Reduce administrative burden**

The Issues Paper asked the question:

*Are there any other matters relating to licensing that could be changed to reduce administrative burden?*

A number of comments were received. Some of these comments are provided. The SABL said:

*In relation to the question 'Are there any other matters relating to licensing that could be changed' the League submits the following for your consideration*

- 1. On obtaining a licence it doesn't necessarily follow the applicant starts work as a bookmaker (a taxi driver's licence doesn't ensure the holder is driving taxis)*
- 2. To work as a bookmaker the new licence holder has to obtain a permit and the granting of the permit should be subject to providing a bond (in the form of a bank guarantee only) for an amount that satisfies the Commissioner that it is appropriate to the permit (e.g. Morphettville rails – v Kulpara dogs)*
- 3. The Commissioner is in a position to monitor how a South Australian licensed bookmaker is trading at any time by virtue of weekly information he receives from each bookmaker. No*

*other authority in Australia requires or receives such information. If the Commissioner has a concern regarding a particular bookmaker he has the power, in accordance with the Bookmakers Licensing Rules, to increase the dollar value of the bond or refer the matter to the Independent Gambling Authority who is responsible for disciplinary functions. The Authority also has the power to cancel a licence.*

*There is a view that yearly financials are required because a bookmaker's assets could be diminished and the Commissioner could be unaware of such an event. Under the present system it is possible for a bookmaker to lose all his money a day after licence renewal and the Commissioner be unaware of the fact. In that event the bookmaker could operate for 51 weeks with no assets.*

*In other words a bond (bank guarantee only) secures the Commissioner's position; it cannot be altered without the Commissioner's knowledge.*

*The League contends that a bond is a better alternative than yearly financials, which as previously alluded to are an undue burden on its members.*

The Office for Racing said:

*Given that all licensed bookmakers are required to lodge a bond to cover any debts that may be incurred, relating to that person's bookmaking operations, and the fact that the Office of the Liquor and Gambling Commissioner monitor, on a weekly basis, the amounts bet with the bookmaker and the amounts paid out by the bookmaker, it would seem appropriate that bookmakers financial statements be lodged on licence renewal every five years as recommended above.*

The Commissioner said:

*The length of the licence relates directly to the administrative burden on bookmakers – the longer the licence, the less the burden. Under the current legislation I am not prepared to grant long term licences.*

The comment from the SABL highlights the problem associated with the information that is provided during the annual licensing process. This information represents a point in time picture of a bookmaker's ability to meet his or her financial obligations. This may change soon after this information is submitted, which is why the Commissioner also requires bookmakers to provide turnover figures and betting sheets on a regular basis. This requirement was extended from weekly to monthly in March 2010 as a red tape reduction measure.

The Commissioner has agreed to use his discretionary powers to extend the term of the licence from the current one year term up to a three year term from 1 January 2013.

Given that the licensing period will be extended, the Commissioner will, with effect from 1 January 2013, revoke the condition on all licences that requires the provision of annual financial statements and will use the discretionary powers provided under the Act to undertake risk based financial assessments at any time during the term of the licence that the Commissioner may determine to be necessary.

## **2.5 Policy Outcomes**

In relation to the licensing of bookmakers:

1. The South Australian Government proposes to amend the *Authorised Betting Operations Act 2000* to insert a criminal intelligence provision and prohibit inspectors, the Liquor and Gambling Commissioner, members and the secretary of the Independent Gambling Authority from engaging in gambling with a licensee.

2. The Liquor and Gambling Commissioner has agreed to use discretionary powers to extend the term of the licence for bookmakers from the current one-year term up to a three-year term from 1 January 2013. Discretionary powers will be used to undertake risk-based financial assessments during the term of the licence.

## 3 Permits

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### 3.1 Background

The Issues Paper asked the following questions about bookmaker permits:

- **Question 1:** Is a permit system in legislation required?
- **Question 2:** If so, what advantages in terms of consumer protection and probity does it offer?
- **Question 3:** What commercial arrangements relating to the approval of bookmakers to field are appropriate for the racing industry?
- **Question 4:** If the permit system is replaced with a licence condition authority for telephone and internet bookmaking, what criteria should apply to the granting of that authority?

The following sections outline and discuss the responses to each of these questions.

### 3.2 Questions 1 and 2: Permit system

The Issues Paper asked the following questions:

*Is a permit system in legislation required?*

*If so [Is a permit system in legislation required?], what advantages in terms of consumer protection and probity does it offer?*

With regards to the legislated permit system page 12 of the Issues Paper said:

*While the SABL proposed a transfer of responsibility of the legislated permit system from OLGC to SABL, it is possible to establish a regulatory system without permits and leave it to the racing industry to determine, on a commercial basis, which bookmakers provide bookmaker services at particular venues. As noted in the previous section, this occurs in other jurisdictions.*

Stakeholder submissions from the SABL, Mr Syd McDonald, TRSA and HRSA supported the retention of the legislated permit system and permit issuing power by the Government.

The IGA, the Commissioner, and more recently the Office for Racing have indicated that they do not support the retention of the legislated permit system.

The main points in the submissions that supported the retention of a permit system in legislation were as follows:

- a) it provides a means of instant suspension if there is a probity concern;
- b) it provides a means of ensuring that bookmakers are available at all race meetings;
- c) it identifies where bookmakers will be operating; and
- d) it allocates race meetings to bookmakers by an independent body.

These points are now discussed under their headings.

### Permit system provides a means of instant suspension if there is a probity concern

On the view that the permit system provides a means of instant suspension if there is a probity concern, licensed bookmaker, Mr Syd McDonald said:

*The current system of the Government issued permits, in my view, delivers the highest level of probity of any of the options canvassed in the issues paper.*

*The Government continuing to issue permits gives the Government the greatest flexibility and power to pursue its responsible gambling policies. In that regard, if the Government formed a view that a particular bookmaker was not acting in accordance with responsible gambling principles, whilst it can take various steps in relation to licenses to address that issue, it appears to me that the permit system offers a much faster and simpler method for the Government to take action to address issues with bookmakers not upholding responsible gambling principles (if that occurs in the future).*

On the use of the permit system as a disciplinary process, the then Commissioner said:

*It is not appropriate to use the permit system as a disciplinary process. If a regulator has concerns about a bookmaker's betting operations in terms of consumer protection, the regulator should be able to take the disciplinary action available in the Act in relation to the bookmaker's licence, rather than deny permits.*

Given that the Commissioner, the authority that regulates bookmakers, is of the view that it is not appropriate to use the permit system as a disciplinary process, continuation of a legislated permit system on the grounds of the first argument cannot be justified.

### Permit system provides a means of ensuring that bookmakers are available at all race meetings

It is not the position of the Government that a bookmaker must be present at every race meeting, particularly given that fixed odds race betting is also available at race meetings and off-course at the SA TAB. The current operation of the permit system by CBS (formerly OLG) does not include minimum requirements regarding the attendance at races.

In addition the Commissioner said that a permit system is not necessary for authorisations and restrictions:

*No [a permit system in legislation is not required]. All authorisations and restrictions currently contained in a permit could be included in a licence or governed by legislation.*

Therefore, retaining the permit system is not justified for ensuring that bookmakers are available at all race meetings.

### Permit system identifies where bookmakers will be operating

Regarding the third argument, that a permit system provides a means of identifying where bookmakers will be operating, the IGA said:

*The Authority is aware that the present legislated permit system provides the starting point for identifying where bookmakers will be operating, so that they can be inspected and so that the betting sheets and other returns can be anticipated. However, there are other ways of obtaining this information (such as a notification obligation in the Bookmakers Licensing Rules).*

The IGA highlighted that a notification obligation in the *Bookmakers Licensing Rules* can identify where bookmakers will be operating.

Therefore a permit system is not required to identify where bookmakers will be operating.



### Permit system allocates race meetings to bookmakers by an independent body

On the argument that an independent body allocates race meetings, a recent comment from CBS (formerly OLG) is that the Government should not be involved in a decision that is effectively a commercial arrangement between industry participants. This view was also supported by the IGA and the Office for Racing in their later submission. On this point the IGA said:

*..the allocation of bookmakers to race meetings should be able to be managed effectively between the industry participants.*

The Office for Racing said in their later submission:

*The Office for Racing is of the view that the permit system should be abolished and that it become the responsibility of each of the racing controlling authorities, together with the racing club scheduled to conduct the race meeting to appoint a bookmakers who have applied to field at that particular race meeting. The SA Bookmakers' League should not be involved in this matter.*

The Office for Racing also said in their later submission:

*Individual bookmakers continue, on a more regular basis, to approach racing clubs wanting to field at their venues and as a result exacerbating disharmony amongst individual bookmakers.*

The issue reported by the Office for Racing shows that the current permit system is not working.

It is not appropriate for the regulator to remain involved in a decision that is effectively a commercial arrangement between industry participants. The Government does not believe it can add any benefit to those commercial arrangements. In addition the Government remaining involved in that decision risks putting itself in a position where it may be alleged that it has favoured one bookmaker over another.

### Summary

In summary, no market failures have been identified to warrant the regulation of which bookmaker fields at which racecourse nor are there any consumer protection and probity regulation reasons to retain the legislated permit system.

Given that continued Government regulation of bookmaker permits is not warranted, is it appropriate for either the SABL or the racing controlling authorities to have the power to determine which bookmaker fields at which race meeting?

While the SABL is a representative body of bookmakers, it does not necessarily represent all bookmakers. There may be a perceived conflict of interest between member bookmakers and non-member bookmakers.

The alternative approach is to have the racing controlling authorities determining which bookmaker fields at which race meeting. This approach was supported by the second submission of the Office for Racing and can be implemented without legislative amendments.

Racing clubs can be given the choice of managing the arrangements with bookmakers directly or if they choose, they could appoint an agent to manage arrangements with bookmakers. The agent could be the racing controlling authority. If a racing controlling authority considers it necessary to manage arrangements with bookmakers on behalf of all relevant racing clubs, a direction could be given under section 13 of the *Authorised Betting Operations Act 2001*.

It is proposed to repeal the permit system contained in sections 54 to 59 of the Act. Arrangements to field are to be subject to direct negotiations between racing clubs (or their agents) and bookmakers.

### 3.3 Question 3: Commercial arrangements

The Issues Paper asked the question:

*What commercial arrangements relating to the approval of bookmakers to field are appropriate for the racing industry?*

Given that it is proposed in section 3.2 to repeal the permit system contained in sections 54 to 59 of the Act, the question about what commercial arrangements relating to the approval of bookmakers to field are appropriate to the racing industry becomes an issue. This question is also important given that the Government's proposed intention is that arrangements to field are to be subject to negotiations between racing clubs (or their agents) and bookmakers.

On this question a number of comments were received. Some of these comments are provided below.

The IGA said:

*The Authority is aware that there are restrictions in the present licensing arrangements which impair the bookmakers' negotiating position. Most bookmaker activity is conducted on racecourses, giving the racing clubs the unilateral capacity to decline them access to their livelihood. In addition, bookmakers' race day profitability is dependent on the capacity of the racing club to attract patrons to the course.*

*The Authority understands that these restrictions play a role in ensuring the probity of the licensed activity, and also in enabling the government to fulfil its exclusivity obligations to the holders of the major betting operations licence.*

*These restrictions justify there being some avenue for dispute resolution between bookmakers and racing clubs (hopefully invoked only in exceptional circumstances). Such an avenue for dispute resolution could be legislated in principal legislation. Alternatively, it could be mandated as a condition of the on-course totalisator betting licences for which the Authority is the licensing body.*

The Government does not agree with the view of the IGA that it or any other body be a dispute resolution body.

The then Commissioner said:

*As permits are currently granted for race meetings, consideration would have to be given to a legislative definition of race meeting from a time perspective e.g. betting can take place 2 hours before first race up to a certain time.*

The Commissioner's comment highlights that conditions currently listed on permits will be required to be listed on the licence to ensure compliance with the Government's Approved Licensing Agreement with SA TAB. The Commissioner will impose licence conditions that limit when and where bookmakers can accept bets.

### 3.4 Question 4: Telephone and internet bookmaking

The Issues Paper asked the question:

*If the permit system is replaced with a licence condition authority for telephone and internet bookmaking, what criteria should apply to the granting of that authority?*

On this issue the Commissioner said:

*The Act provides for a permit to authorise betting by telephone or other electronic means (internet). Granting any authority via licence or licence condition should be up to the licensing authority with provision for Ministerial Direction if required. If authorised, telephone and internet betting would be subject to the requirements of the Rules and approved procedures determined by the Commissioner.*

Section 53A(3) of the Act provides Ministerial direction powers that bind the Commissioner in the granting of licences endorsed with an authorisation to accept bets made by telephone, Internet or other electronic means.

### **3.5 Policy Position**

In relation to permits:

1. The South Australian Government proposes to repeal the permit system contained in sections 54 to 59 of the *Authorised Betting Operations Act 2000*.
2. Arrangements to field are to be subject to negotiations between racing clubs (or their agents) and bookmakers.
3. To ensure compliance with the Government's Approved Licensing Agreement with SA TAB, the Commissioner will impose licence conditions that limit when and where bookmakers can accept bets.

## 4 Rules

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### 4.1 Background

The Issues Paper asked the following questions about the *Bookmakers Licensing Rules 2000*:

- **Question 1:** Is the scope of the Independent Gambling Authority's rule making powers appropriate? If not please provide examples?
- **Question 2:** Are there any particular rules that cause undue administrative burden?
- **Question 3:** Are there any rules that could be revoked because they are no longer required?
- **Question 4:** Should the system of security be administered at all or should it be administered by the industry or continue to be administered by OLG?
- **Question 5:** If security is to be administered by the industry what are the key parameters of an industry scheme?

The following sections outline and discuss the responses to each of these questions.

### 4.2 Question 1: Appropriateness of IGA's rule making powers

The Issues Paper asked the question:

*Is the scope of the Independent Gambling Authority's rule making powers appropriate? If not please provide examples?*

A number of comments were received. Some of these comments are provided.

The SABL said:

*The League is of the view that the scope of the Independent Gambling Authority's rule making powers are appropriate.*

The then Commissioner said:

*I believe that the scope is appropriate although in some areas the rules go onto too much detail (keeping records) and in other more detail is required (no specific rules for sports betting).*

The TRSA said:

*TRSA Limited proposes the Industry is best positioned to administer and enforce rules relating to the operation of bookmakers at thoroughbred race meetings in South Australia.*

*Without questioning the strategy of the OLG in administering the Rules relating to bookmakers, it could be argued that the specific needs of the industry might be served in a more timely and efficient manner through administration by TRSA Limited (and the Stewards).*

It is not the Government's intention to transfer this to the industry. For the purposes of probity the regulatory functions associated with the *Bookmakers Licensing Rules* will continue to be undertaken by a Government agency.

The IGA said:

*The rule-making powers set out in section 62 of the Authorised Betting Operations Act are narrower than those set out in section 124 of the now repealed Racing Act 1976.*

*The present rules were initially made under section 124 of the Racing Act and reflected the wider heads of power. While it may be that some of the continuing rules (upon which reliance is placed) are no longer supported by the head of power, there have been no cases in which an objection has been raised.*

*The rule making powers should be reviewed, in conjunction with the existing rules and the existing conditions of licences, to ensure that the Authority is fully able to regulate the activity of all participants in bookmaking operations, including the holders of agents' licences and other, non-licensed, employees of bookmakers.*

*Some of the complexity of the provisions of Part 12 of the Bookmakers Licensing Rules (relating to bookmaker securities) is a direct result of the framing of section 62(1)(b). An amendment to this section would enable simplification of the bookmaker security provisions.*

*The Authority has always been prepared to respond to individual examples of difficulty with the rules in a timely way once those matters have been raised.*

*However, there are known to be individual rules which should be revoked because they are practically redundant or impenetrably worded. The Authority is prepared to undertake a review of the rules, both for redundancy and for administrative burden.*

*This present review of bookmaker regulation could provide the impetus for the sort of highly focused input which would be necessary for a comprehensive rules review. (This input would need to come not only from the Authority, but also from the Office of the Liquor and Gambling Commissioner, from bookmakers and their staff and from representatives of the racing industry.)*

The IGA has agreed to undertake a comprehensive assessment of the *Bookmakers Licensing Rules 2000* with a view to reducing the administrative burden on bookmakers. This will occur when the *Bookmakers Licensing Rules* are next updated.

It is proposed to amend the *Authorised Betting Operations Act 2000* to simplify the operation of section 62(1)(b) in relation to bookmaker securities.

### **4.3 Question 2: Rules that cause undue administrative burden**

The Issues Paper asked the question:

*Are there any particular rules that cause undue administrative burden?*

A number of comments were received on this matter. Given the comprehensive assessment of the *Bookmakers Licensing Rules* to be undertaken by the IGA, all comments made by stakeholders have been forwarded to the IGA to be considered as part of their review.

### **4.4 Question 3: Rules that could be revoked**

The Issues Paper asked the question:

*Are there any rules that could be revoked because they are no longer required?*

A number of comments were received on this matter. Given the comprehensive assessment of the *Bookmakers Licensing Rules* to be undertaken by the IGA, all comments made by stakeholders have been forwarded to the IGA to be considered as part of their review.

#### 4.5 Question 4: Administration of the security system

The Issues Paper asked the question:

*Should the system of security be administered at all or should it be administered by the industry or continue to be administered by OLGC?*

A number of comments were received. Some of these comments are provided.

The IGA said:

*The Authority believes it is appropriate for there to be a system of bookmaker security and that the principal rationale for this system should be the protection of bookmakers' customers.*

*The Authority has a preference for the retention of the present system of individual bookmaker securities, set at an appropriate level. The rules presently enable the Commissioner to fix levels on a licensee-by-licensee. As presently worded, this intended to be an exception based activity, with the majority of bookmakers falling within a fixed default levels of bonding.*

*The present rules do allow for the establishment of a fidelity fund model, in that they allow a body such as the South Australian Bookmakers' League to be approved as the guarantor or security provider for bookmakers' obligations.*

*The Authority's present position on an industry scheme is that the vast majority of industry participants must be comfortable with what is proposed. The Authority makes this observation in the context of the experiences of other fidelity funds where large defalcations have meant that compliant operators have suffered.*

The SABL said:

*The League supports the OLGC in continuing to administer the lodgment of bonds or as you refer to the system of security. It is the League's view that the proper control of bonds should replace the need to furnish annual financial statements.*

The then Commissioner said:

*Bookmakers must deal with two Government regulators in relation to the lodgment and refund of securities. While the Commissioner holds cash the Independent Gambling Authority (IGA) holds bank guarantees and mortgages. When seeking a release of a bank guarantee or discharge of mortgages by the IGA, the bookmaker must first seek the agreement of the Commissioner as it is the Commissioner who must be satisfied that the remaining security is sufficient.*

*Other State Governments regulate the amount of security or guarantee required but do not hold that security. The securities are managed by Bookmaker Associations.*

*The level of security should be high enough to ensure confidence and protection, be fair to all bookmakers and be assessable to claimants in the event that a bookmaker is unable to meet his betting obligations.*

*I recommend that security levels, based on turnover, should be set by regulation or rule (after consultation with the industry) and administered by the industry.*

The system of security will continue to be administered by CBS and the IGA. The IGA will consider the detail of the system of security in its comprehensive assessment of the *Bookmakers Licensing Rules*.

As highlighted in section 4.2, it is proposed to amend the *Authorised Betting Operations Act 2000* to simplify the operation of section 62(1)(b) in relation to bookmaker securities.

#### 4.6 Question 5: Key parameters of an industry scheme

The Issues Paper asked the question:

*If security is to be administered by the industry what are the key parameters of an industry scheme?*

Given that the security system will continue to be administered by the Government, this question is no longer relevant.

#### 4.7 Policy Position

In relation to the rules:

1. The regulatory functions associated with the *Bookmakers Licensing Rules 2000* will continue to be undertaken by Government agencies.
2. The Independent Gambling Authority has agreed to:
  - undertake a comprehensive assessment of the *Bookmakers Licensing Rules 2000* with a view to reducing the administrative burden on bookmakers; and
  - seek submissions from bookmakers, racing clubs and other interested stakeholders.
3. It is proposed to amend the *Authorised Betting Operations Act 2000* to simplify the operation of section 62(1)(b) in relation to bookmaker securities.

## 5 Enforcement and Compliance

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### 5.1 Background

The Issues Paper asked the following questions about enforcement and compliance:

- **Question 1:** Would a transfer of the disciplinary function for bookmakers from the IGA to the Commissioner reduce administrative and regulatory burden for bookmakers?
- **Question 2:** Would a transfer of the disciplinary function for bookmakers from the IGA to the Commissioner impact on consumer protection and the integrity of racing and wagering?

The following sections outline and discuss the responses to each of these questions.

### 5.2 Question 1: Transfer of the disciplinary function

The Issues Paper asked the question:

*Would a transfer of the disciplinary function for bookmakers from the IGA to the Commissioner reduce administrative and regulatory burden for bookmakers?*

A number of comments were received. Some of these comments are provided.

The IGA said:

*The Authority does not support the transfer of disciplinary functions for bookmakers to the Liquor and Gambling Commissioner.*

*It is unreasonable to expect any licensee to be happy with being disciplined. The Authority is certain that the approach it has taken has been proportionate to the seriousness of the observed breaches.*

*In questions of serious impropriety, the Authority has conducted extensive inquiry hearings before coming to conclusions. Those inquiry processes have revealed, in relation to the individuals concerned, a poor understanding by licensees of their obligations, of the importance of probity, and of the roles of the regulators.*

*In relation to what might be described as low impact systemic non-compliances, the Authority has adopted an approach which has given the licensees the opportunity to expiate, or alternatively to seek exoneration through a formal process.*

*It is a necessary incident of enforcement, compliance and disciplinary functions that they impose administrative and regulatory burden. The policy question is whether the burden is justified. There may exist opportunities, across the offices of both the Commissioner and the Authority, for streamlining process but these would not appear to hinge on who it is who exercises the ultimate disciplinary power.*

The SABL said:

*The League does not support the transfer of disciplinary functions from the IGA to the Commissioner and therefore offers no further comment in relation to these questions.*



The then Commissioner said:

*Currently non-compliance is detected by staff from my Office and the licensee is advised that although the Commissioner has no disciplinary powers, the Commissioner requires a submission from the licensee regarding non-compliance prior to that matter being forwarded to the IGA.*

*Non-compliance is reported to the IGA in a statistical format on a monthly basis and further details are provided on request from the IGA. This Office is unable to tell a bookmaker if any further action is to be taken as that is up to the IGA. If the IGA determines to take no further action, the licensee gets no confirmation of that.*

*The transfer would give bookmakers one point of contact for licensing and compliance issues and they would deal with the IGA on matters of appeal.*

If the disciplinary function was shifted from the IGA to CBS (formerly OLGC), then disciplinary functions under the Act would be split between CBS for bookmakers and the IGA for all other betting operations. It would be inconsistent to split the disciplinary functions for different types of betting operators and stakeholders did not indicate support for such a shift.

### **5.3 Question 2: Would a transfer impact consumer protection and integrity?**

The Issues Paper asked the question:

*Would a transfer of the disciplinary function for bookmakers from the IGA to the Commissioner impact on consumer protection and the integrity of racing and wagering?*

A number of comments were received. Some of these comments are provided.

The IGA said:

*One advantage that the Authority brings to the disciplinary function is of being a multi-member body. It is able to apply a collegiate approach to the determination of public expectations and the standards to which bookmakers should be held.*

The SABL said:

*The League does not support the transfer of disciplinary functions from the IGA to the Commissioner and therefore offers no further comment in relation to these questions.*

The then Commissioner said:

*A transfer of the disciplinary function to the Commissioner, with appeal to the IGA, would have no detrimental impact on consumer protection or the integrity of racing and wagering.*

As discussed above, it is not considered appropriate to transfer the disciplinary function from the IGA to the Commissioner.

### **5.4 Policy Position**

In relation to compliance and enforcement, the IGA will retain the disciplinary function.

## 6 Unclaimed Winnings

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### 6.1 Background

The Issues Paper asked a question about unclaimed winnings.

### 6.2 Question 1: Change in the frequency of the payment

The Issues Paper asked the question:

*Would a change in the frequency of the payment of unclaimed winnings to the Treasurer from weekly to a less frequent basis assist in reducing the administrative and regulatory burden for bookmakers?*

A number of comments were received. Some of these comments are provided.

The SABL said:

*The League submits that as the Government does not support the retention of unclaimed winnings by the SABL or bookmakers that any change in frequency of payments of unclaimed winnings to the Treasurer would not reduce any administrative or regulatory burden. The League believes any change could have the opposite effect.*

Licensed bookmaker, Mr Syd McDonald said:

*In my view, it is entirely appropriate to retain the existing arrangements whereby unclaimed winnings must be paid to the Government. In my view there is no need for changes to the current system.*

*Bookmakers are currently paying the industry levy on a weekly return to SABL and I believe the changing of the frequency of unclaimed winnings may cause inconsistencies to an already up-to-date less forgetful weekly routine.*

*..In my view, in attempting to reduce the administrative and regulatory burden for bookmakers, the little time required to complete the weekly official Unpaid Moneys lodgment form in accordance with Regulation 12(1), is of little inconvenience to the bookmaker and far outweighs the potential inconveniences to customers.*

The IGA said:

*The answer to this question, in principle, is affirmative.*

*However, a change is contra-indicated by the Authority's recent disciplinary experience. There has been more than one case of bookmakers failing to pay in their unclaimed winnings.*

*The systemic factors underlying these failures would be made worse by a change to a less frequent payment pattern.*

There was no support to change the frequency of payment of unclaimed winnings. This was also the position of the Commissioner.

However, it is acknowledged that cost of administration by CBS (formerly OLGC) as a proportion of the unclaimed winnings is relatively high. The IT system used to administer unclaimed winnings has reached the end of its useful life. Consideration is being given to administration of unclaimed winnings arrangements by bookmakers, allowing for claims for a period of one year. Unclaimed winnings that have not been claimed within one year would be required to be paid to the consolidated account.

### **6.3 Policy Position**

The Department of Treasury and Finance and CBS have commenced discussions with bookmakers and the racing industry to determine whether unclaimed winnings arrangements administered by bookmakers are feasible. Claims would be allowed for a period of one year. Unclaimed winnings that have not been claimed within one year would be required to be paid to the consolidated account.

## **7 Betting Information Service**

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### **7.1 Background**

The Issues Paper asked a question about the Betting Information Service.

### **7.2 Question 1: Transfer or approval of communication of information**

The Issues Paper asked the question:

*Would a transfer of responsibility for the approval for the communication of certain information as to racing or betting from the Commissioner to the three racing controlling authorities assist in reducing the administrative and regulatory burden for bookmakers?*

A number of comments were received. The SABL said:

*The League does not support the transfer of this responsibility from the Commissioner.*

*The League remains concerned that its members' prices continue to be transmitted off the racecourse through TAB radio and by race broadcasters located on the racecourse.*

*Monitors installed in the broadcasters box, which show all bookmakers betting fluctuations, should not be used by the broadcaster to transmit bookmakers' odds off the racecourse in contravention of current laws. This matter goes to the core of our members viability and we ask that it be enforced.*

There will be no transfer of the responsibility for the approval for the communication of certain information as to racing or betting from the Commissioner to the three racing controlling authorities.

### **7.3 Policy Position**

In relation to the betting information service, there will be no change in the responsibility for the approval under section 61 of the *Authorised Betting Operations Act 2000*.

## 8 Conclusion

### 8.1 Summary of Policy Positions

The table below summarises the policy positions reached in this Policy Paper.

Area	Positions
<b>Licensing</b>	<p>The South Australian Government proposes to amend the <i>Authorised Betting Operations Act 2000</i> to insert a criminal intelligence provision and prohibit inspectors, the Liquor and Gambling Commissioner, members and the secretary of the Independent Gambling Authority from engaging in gambling with a licensee.</p> <p>The Liquor and Gambling Commissioner has agreed to use discretionary powers to extend the term of the licence for bookmakers from the current one-year term up to a three-year term from 1 January 2013. Discretionary powers will be used to undertake risk-based financial assessments during the term of the licence..</p>
<b>Permits</b>	<p>The South Australian Government proposes to repeal the permit system contained in sections 54 to 59 of the <i>Authorised Betting Operations Act 2000</i>.</p> <p>Arrangements to field are to be subject to negotiations between racing clubs (or their agents) and bookmakers.</p> <p>To ensure compliance with the Government's Approved Licensing Agreement with SA TAB, the Commissioner will impose licence conditions that limit when and where bookmakers can accept bets.</p>
<b>Rules</b>	<p>The regulatory functions associated with the <i>Bookmakers Licensing Rules 2000</i> will continue to be undertaken by Government agencies.</p> <p>The Independent Gambling Authority has agreed to:</p> <ul style="list-style-type: none"> <li>• undertake a comprehensive assessment of the <i>Bookmakers Licensing Rules 2000</i> with a view to reducing the administrative burden on bookmakers; and</li> <li>• seek submissions from bookmakers, racing clubs and other interested stakeholders on the <i>Bookmakers Licensing Rules</i>.</li> </ul> <p>It is proposed to amend the <i>Authorised Betting Operations Act 2000</i> to simplify the operation of section 62(1)(b) in relation to bookmaker securities. Section 62(1)(b) should refer to any bookmaker, not only an applicant for a bookmaker's licence.</p>
<b>Enforcement and Compliance</b>	<p>The Independent Gambling Authority will retain the disciplinary function.</p>

Area	Positions
<b>Unclaimed Winnings</b>	The Department of Treasury and Finance and Consumer and Business Services (CBS – formerly the Office of the Liquor and Gambling Commissioner) have commenced discussions with bookmakers and the racing industry to determine whether unclaimed winnings arrangements administered by bookmakers are feasible. Claims would be allowed for a period of one year. Unclaimed winnings that have not been claimed within one year would be required to be paid to the consolidated account.
<b>Betting Information Service</b>	There will be no change in the responsibility for the approval under section 61 of the <i>Authorised Betting Operations Act 2000</i> .

## 8.2 Next Steps

### ***Liquor and Gambling Commissioner***

The Commissioner has agreed to use discretionary powers to extend the term of a bookmaker's licence up to three years as licences come up for renewal from 1 January 2013 and the licence condition requiring annual financial statements will be revoked.

The extension to the term of the licence will also apply to bookmaker agents' licences.

Together with the Department of Treasury and Finance, industry administered arrangements for unclaimed winnings will be considered and discussed with bookmakers and the racing industry.

### ***Independent Gambling Authority***

The IGA has agreed to comprehensively assess the Bookmakers Licensing Rules with a view to reducing administrative burden on bookmakers.

This will occur when the Rules are next updated.

### ***South Australian Government – Department of Treasury and Finance***

There are a number of amendments to the Act identified in this Policy Paper which will be incorporated into amendments of the Act and Regulations scheduled for the second half of 2013.