



New South Wales

Crimes Amendment (Cheating at Gambling) Bill 2012

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Crimes Act 1900* to prohibit certain conduct that can corrupt the betting outcomes of events on which it is lawful to place bets.

The Bill prohibits:

- (a) engaging in conduct that corrupts a betting outcome of an event with the intention of obtaining a financial advantage, or causing a financial disadvantage, in connection with betting on the event, and
- (b) facilitating conduct that corrupts a betting outcome of an event with the intention of obtaining a financial advantage, or causing a financial disadvantage, in connection with betting on the event, and
- (c) encouraging another person to conceal conduct, or an agreement about conduct, that corrupts a betting outcome of an event with the intention of obtaining a financial advantage, or causing a financial disadvantage, in connection with betting on the event, and
- (d) using corrupt conduct information or inside information about an event for betting purposes.

Conduct corrupts a betting outcome of an event if the conduct:

- (a) affects or, if engaged in, would be likely to affect the outcome of any type of betting on the event, and
- (b) is contrary to the standards of integrity that a reasonable person would expect of persons in a position to affect the outcome of any type of betting on the event.

The accused must engage in the conduct, or facilitate the conduct, knowing or being reckless as to whether the conduct corrupts a betting outcome of the event.

The Bill also makes a related amendment to the *Criminal Procedure Act 1986*.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent.

Schedule 1 Amendment of Crimes Act 1900 No 40

Schedule 1 [1] inserts a new Part 4ACA into the *Crimes Act 1900* that provides for the new offences.

Division 1 of proposed Part 4ACA defines expressions used in the proposed Part, including what it means to corrupt a betting outcome of an event (as described in the Overview).

Betting is defined to include both placing and withdrawing bets, and accepting bets.

An event is any event (whether or not taking place in this State) on which it is lawful to place bets under an Australian law. Betting on an event includes any betting on any contingencies connected with an event.

The provisions also define what it means to obtain a financial advantage, or cause a financial disadvantage, in a manner similar to existing fraud offences.

To prove an intention to obtain a financial advantage, or cause a financial disadvantage, it is necessary to prove that the accused:

- (a) meant to obtain a financial advantage, or cause a financial disadvantage, in connection with betting on the event, or
- (b) was aware that another person meant to obtain a financial advantage, or cause a financial disadvantage, in connection with betting on the event, as a result of the conduct the subject of the charge.

The provisions also broadly define what it means to encourage another person to do something.

Division 2 of proposed Part 4ACA sets out the new offences described in the Overview.

The offence relating to engaging in conduct that corrupts a betting outcome of an event carries a maximum penalty of imprisonment for 10 years.

The offence relating to facilitating conduct that corrupts a betting outcome of an event carries a maximum penalty of imprisonment for 10 years. Facilitating conduct that corrupts a betting outcome of an event means offering to engage in, encouraging another person to engage in or entering into an agreement about, conduct that corrupts a betting outcome of an event.

The offence relating to concealing conduct that corrupts a betting outcome of an event carries a maximum penalty of imprisonment for 10 years.

The offence of using corrupt conduct information about an event for betting purposes carries a maximum penalty of imprisonment for 10 years. Corrupt conduct information is any information about conduct or proposed conduct that corrupts a betting outcome of the relevant event.

The offence of using inside information for betting purposes carries a maximum penalty of imprisonment for 2 years. Inside information is any information that is not generally available and which, if it were generally available, would or would be likely to influence persons who commonly bet on the relevant event in deciding whether or not to bet on the event or making any other betting decision.

Schedule 1 [2] provides for the review of the operation of the new Part at the end of the period of 3 years after the commencement of the new Part.

Schedule 2 Amendment of Criminal Procedure Act 1986 No 209

Schedule 2 requires the new offences to be dealt with summarily unless the prosecutor or person charged elects to have the offence dealt with on indictment.

First print



New South Wales

Crimes Amendment (Cheating at Gambling) Bill 2012

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New South Wales

Crimes Amendment (Cheating at Gambling) Bill 2012

No. , 2012

A Bill for

An Act to amend the *Crimes Act 1900* to prohibit certain conduct that can corrupt the betting outcomes of events on which it is lawful to place bets; and for related purposes.

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| The Legislature of New South Wales enacts: | 1 |
| 1 Name of Act | 2 |
| This Act is the <i>Crimes Amendment (Cheating at Gambling) Act 2012</i> . | 3 |
| 2 Commencement | 4 |
| This Act commences on the date of assent to this Act. | 5 |

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| Schedule 1 | Amendment of Crimes Act 1900 No 40 | 1 |
| [1] Part 4ACA | | 2 |
| | Insert after Part 4AC: | 3 |
| Part 4ACA | Cheating at gambling | 4 |
| Division 1 | Preliminary | 5 |
| 193H | Corrupting betting outcome of event | 6 |
| (1) | For the purposes of this Part, conduct <i>corrupts a betting outcome of an event</i> if the conduct: | 7 |
| | (a) affects or, if engaged in, would be likely to affect the outcome of any type of betting on the event, and | 8 |
| | (b) is contrary to the standards of integrity that a reasonable person would expect of persons in a position to affect the outcome of any type of betting on the event. | 9 |
| (2) | For the purposes of this Part, an <i>agreement about conduct that corrupts a betting outcome of an event</i> is an agreement between 2 or more persons under which one or more of those persons agree to engage in conduct that corrupts a betting outcome of an event. | 10 |
| (3) | In this Part: | 11 |
| | <i>agreement</i> includes an arrangement. | 12 |
| | <i>conduct</i> means an act or an omission to perform an act. | 13 |
| | <i>engage in conduct</i> means: | 14 |
| | (a) do an act, or | 15 |
| | (b) omit to perform an act. | 16 |
| 193I | Betting | 17 |
| (1) | In this Part, <i>bet</i> includes the following: | 18 |
| | (a) place, accept or withdraw a bet, | 19 |
| | (b) cause a bet to be placed, accepted or withdrawn. | 20 |
| (2) | A reference in this Part to betting on an event includes a reference to betting on any event contingency. | 21 |

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| 193J | Events and event contingencies | 1 |
| (1) | In this Part, an <i>event</i> means any event (whether it takes place in this State or elsewhere) on which it is lawful to bet under a law of this State, another State, a Territory or the Commonwealth. | 2 3 4 |
| (2) | In this Part, an <i>event contingency</i> means any contingency in any way connected with an event, being a contingency on which it is lawful to bet under a law of this State, another State, a Territory or the Commonwealth. | 5 6 7 8 |
| 193K | Obtaining financial advantage or causing financial disadvantage | 9 |
| (1) | In this Part, <i>obtain</i> a financial advantage includes: | 10 |
| (a) | obtain a financial advantage for oneself or for another person, and | 11 12 |
| (b) | induce a third person to do something that results in oneself or another person obtaining a financial advantage, and | 13 14 15 |
| (c) | keep a financial advantage that one has, whether the financial advantage is permanent or temporary. | 16 17 |
| (2) | In this Part, <i>cause</i> a financial disadvantage means: | 18 |
| (a) | cause a financial disadvantage to another person, or | 19 |
| (b) | induce a third person to do something that results in another person suffering a financial disadvantage, whether the financial disadvantage is permanent or temporary. | 20 21 22 |
| 193L | Proof of intention to obtain financial advantage or cause financial disadvantage | 23 24 |
| (1) | If an offence under this Part requires a person (the <i>accused</i>) to intend to obtain a financial advantage, or to cause a financial disadvantage, in connection with betting on an event, that element of the offence is established if, and only if, it is proved that: | 25 26 27 28 29 |
| (a) | the accused meant to obtain a financial advantage, or cause a financial disadvantage, in connection with betting on the event, or | 30 31 32 |
| (b) | the accused was aware that another person meant to obtain a financial advantage, or cause a financial disadvantage, in connection with betting on the event, as a result of the conduct the subject of the charge. | 33 34 35 36 |

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| (2) | It is not necessary to prove that any financial advantage was actually obtained or any financial disadvantage was actually caused. | 1 2 3 |
| (3) | In this section, the <i>conduct the subject of the charge</i> means: | 4 |
| (a) | in the case of an offence against section 193N—the conduct that the accused engaged in, or | 5 6 |
| (b) | in the case of an offence against section 193O—the conduct that the accused facilitated, or | 7 8 |
| (c) | in the case of an offence against section 193P—the conduct, or the conduct the subject of the agreement, that the accused encouraged another person to conceal. | 9 10 11 |
| 193M | Encourage | 12 |
| | In this Part, <i>encourage</i> another person to engage in conduct includes command, request, propose, advise, incite, induce, persuade, authorise, urge, threaten or place pressure on the person to engage in conduct. | 13 14 15 16 |
| Division 2 | Offences | 17 |
| 193N | Engage in conduct that corrupts betting outcome of event | 18 |
| | A person who engages in conduct that corrupts a betting outcome of an event: | 19 20 |
| (a) | knowing or being reckless as to whether the conduct corrupts a betting outcome of the event, and | 21 22 |
| (b) | with the intention of obtaining a financial advantage, or causing a financial disadvantage, in connection with any betting on the event, | 23 24 25 |
| | is guilty of an offence. | 26 |
| | Maximum penalty: Imprisonment for 10 years. | 27 |
| 193O | Facilitate conduct that corrupts betting outcome of event | 28 |
| (1) | A person who facilitates conduct that corrupts a betting outcome of an event: | 29 30 |
| (a) | knowing or being reckless as to whether the conduct facilitated corrupts a betting outcome of the event, and | 31 32 |

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| (b) | with the intention of obtaining a financial advantage, or causing a financial disadvantage, in connection with any betting on the event, | 1 2 3 |
| | is guilty of an offence. | 4 |
| | Maximum penalty: Imprisonment for 10 years. | 5 |
| (2) | A person <i>facilitates</i> conduct that corrupts a betting outcome of an event if the person: | 6 7 |
| (a) | offers to engage in conduct that corrupts a betting outcome of an event, or | 8 9 |
| (b) | encourages another person to engage in conduct that corrupts a betting outcome of an event, or | 10 11 |
| (c) | enters into an agreement about conduct that corrupts a betting outcome of an event. | 12 13 |
| 193P | Concealing conduct or agreement about conduct that corrupts betting outcome of event | 14 15 |
| (1) | A person who encourages another person to conceal from any appropriate authority conduct, or an agreement about conduct, that corrupts a betting outcome of an event: | 16 17 18 |
| (a) | knowing or being reckless as to whether the conduct corrupts a betting outcome of the event, and | 19 20 |
| (b) | with the intention of obtaining a financial advantage, or causing a financial disadvantage, in connection with any betting on the event, | 21 22 23 |
| | is guilty of an offence. | 24 |
| | Maximum penalty: Imprisonment for 10 years. | 25 |
| (2) | In this section, an <i>appropriate authority</i> includes: | 26 |
| (a) | a police officer, or | 27 |
| (b) | a body that has the official function of controlling, regulating or supervising an event, or any betting on an event. | 28 29 30 |
| 193Q | Use of corrupt conduct information or inside information for betting purposes | 31 32 |
| (1) | A person who possesses information in connection with an event that is corrupt conduct information, and who knows or is reckless as to whether the information is corrupt conduct information, is guilty of an offence if the person: | 33 34 35 36 |
| (a) | bets on the event, or | 37 |

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| (b) encourages another person to bet on the event in a particular way, or | 1 2 |
| (c) communicates the information to another person who the first person knows or ought reasonably to know would or would be likely to bet on the event. | 3 4 5 |
| Maximum penalty: Imprisonment for 10 years. | 6 |
| (2) A person who possesses information in connection with an event that is inside information, and who knows or is reckless as to whether the information is inside information, is guilty of an offence if the person: | 7 8 9 10 |
| (a) bets on the event, or | 11 |
| (b) encourages another person to bet on the event in a particular way, or | 12 13 |
| (c) communicates the information to another person who the first person knows or ought reasonably to know would or would be likely to bet on the event. | 14 15 16 |
| Maximum penalty: Imprisonment for 2 years. | 17 |
| (3) Information in connection with an event is corrupt conduct information if the information is about conduct, or proposed conduct, that corrupts a betting outcome of the event. | 18 19 20 |
| (4) Information in connection with an event is inside information if the information: | 21 22 |
| (a) is not generally available, and | 23 |
| (b) if it were generally available, would, or would be likely to, influence persons who commonly bet on the event in deciding whether or not to bet on the event or making any other betting decision. | 24 25 26 27 |
| (5) Information is generally available if: | 28 |
| (a) it consists of matter that is readily observable by the public, or | 29 30 |
| (b) it has been made known in a manner that would, or would be likely to, bring it to the attention of the public, or | 31 32 |
| (c) it consists of deductions, conclusions or inferences made or drawn from information referred to in paragraph (a) or (b). | 33 34 35 |
| (6) In proceedings for an offence against subsection (1) (b) or (c) or (2) (b) or (c) it is not necessary to prove that the person encouraged to bet, or to whom information was communicated, actually bet on the event concerned. | 36 37 38 39 |
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Crimes Amendment (Cheating at Gambling) Bill 2012

Schedule 1 Amendment of Crimes Act 1900 No 40

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| (7) | If, on the trial of a person for an offence under subsection (1), the trier of fact is not satisfied that the accused is guilty of the offence charged but is satisfied that the accused is guilty of an offence under subsection (2), it may find the accused not guilty of the offence charged but guilty of an offence under subsection (2), and the accused is liable to punishment accordingly. | 1 2 3 4 5 6 |
| (8) | A reference in this section to communicating information includes a reference to causing information to be communicated. | 7 8 |
| [2] | Schedule 11 Savings and transitional provisions | 9 |
| | Insert at the end of the Schedule with appropriate Part and clause numbering: | 10 |
| Part | Crimes Amendment (Cheating at Gambling) Act 2012 | 11 12 |
| | Review of amendments | 13 |
| (1) | The Minister is to review the operation of Part 4ACA (Cheating at gambling) to determine whether the policy objectives of that Part remain valid and whether the terms of the Part remain appropriate for securing those objectives. | 14 15 16 17 |
| (2) | The review is to be undertaken as soon as possible after the period of 3 years from the commencement of that Part. | 18 19 |
| (3) | A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 3 years. | 20 21 22 |

