

House of Assembly—No 112

As laid on the table and read a first time, 29 November 2012

South Australia

**Criminal Law Consolidation (Cheating at
Gambling) Amendment Bill 2012**

A BILL FOR

An Act to amend the *Criminal Law Consolidation Act 1935*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Criminal Law Consolidation (Cheating at Gambling) Amendment Act 2012*.

5 2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

10 Part 2—Amendment of *Criminal Law Consolidation Act 1935*

4—Insertion of Part 5B

After Part 5A insert:

Part 5B—Cheating at gambling

144G—Interpretation

- 15 (1) In this Part—
 - agreement* includes an arrangement;
 - bet* includes—
 - (a) place, accept or withdraw a bet;
 - (b) cause a bet to be placed, accepted or withdrawn;

conduct means an act or omission to perform an act;

encourage includes command, request, propose, advise, incite, induce, persuade, authorise, urge, pressure or threaten;

engage in conduct means—

- (a) do an act; or
- (b) omit to do an act;

event means an 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;

event contingency means a contingency connected to 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.

- (2) In this Part, a reference to betting on an event includes a reference to betting on an event contingency.
- (3) For the purposes of this Part, conduct will be taken to be conduct that corrupts a betting outcome if the conduct—
 - (a) affects or, if engaged in, would or 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 an event.
- (4) For the purposes of this Part, an agreement in respect of conduct that corrupts a betting outcome of an event is an agreement between 2 or more persons under which 1 or more persons agree to engage in conduct that corrupts a betting outcome of an event.
- (5) For the purposes of this Part, obtaining a financial advantage includes—
 - (a) obtaining a financial advantage for oneself or for another person;
 - (b) inducing a third person to do something that results in obtaining a financial advantage for oneself or for another person;
 - (c) retaining a financial advantage that one has, whether the financial advantage is permanent or temporary.
- (6) For the purposes of this Part, causing a financial disadvantage includes—
 - (a) causing a financial disadvantage to another person;
 - (b) inducing a third person to do something that results in another person suffering a financial disadvantage, whether the financial disadvantage is permanent or temporary.

- (7) In proceedings for an offence against this Part, the defendant will be taken to have intended to obtain a financial advantage, or cause a financial disadvantage, if, and only if, it is proved that the defendant—
- 5 (a) intended to obtain a financial advantage or to cause a financial disadvantage in connection with betting on an event; or
- (b) was aware that another person intended to obtain a financial advantage or to cause a financial disadvantage, in connection with betting on an event, as a result of the conduct the subject of the charge.
- 10 (8) In proceedings under this Part, it is not necessary to prove that a financial advantage was actually obtained or a financial disadvantage was actually caused.
- 15 (9) In this section, the *conduct the subject of the charge* means—
- (a) in the case of an offence against section 144H—the conduct that the defendant engaged in; or
- (b) in the case of an offence against section 144I(1)—the conduct the defendant offered to engage in; or
- 20 (c) in the case of an offence against section 144I(2)—the conduct the defendant encouraged another person to engage in; or
- (d) in the case of an offence against section 144I(3)—the conduct the subject of the agreement; or
- 25 (e) in the case of an offence against section 144J—the conduct, or the conduct the subject of the agreement, that the defendant encouraged another person to conceal.

144H—Engaging in conduct that corrupts betting outcome of event

30 A person who engages in conduct that corrupts a betting outcome of an event—

- (a) knowing that, or being reckless as to whether, the conduct corrupts a betting outcome of the event; and
- 35 (b) intending to obtain a financial advantage, or cause a financial disadvantage, in connection with any betting on the event,

is guilty of an offence.

Maximum penalty: Imprisonment for 10 years.

144I—Facilitating conduct that corrupts betting outcome of event

(1) A person who offers to engage in conduct that corrupts a betting outcome of an event—

- (a) knowing that, or being reckless as to whether, the conduct corrupts a betting outcome of the event; and
- (b) intending to obtain a financial advantage, or cause a financial disadvantage, in connection with any betting on the event,

is guilty of an offence.

Maximum penalty: Imprisonment for 10 years.

(2) A person who encourages another person to engage in conduct that corrupts a betting outcome of an event—

- (a) knowing that, or being reckless as to whether, the conduct corrupts a betting outcome of the event; and
- (b) intending to obtain a financial advantage, or cause a financial disadvantage, in connection with any betting on the event,

is guilty of an offence.

Maximum penalty: Imprisonment for 10 years.

(3) A person who enters into an agreement in respect of conduct that corrupts a betting outcome of an event—

- (a) knowing that, or being reckless as to whether, the conduct the subject of the agreement corrupts a betting outcome of the event; and
- (b) intending to obtain a financial advantage, or cause a financial disadvantage, in connection with any betting on the event,

is guilty of an offence.

Maximum penalty: Imprisonment for 10 years.

144J—Concealing conduct or agreement

(1) A person who encourages another person to conceal from a relevant authority conduct that corrupts a betting outcome of an event—

- (a) knowing that, or being reckless as to whether, the conduct corrupts a betting outcome of the event; and
- (b) intending to obtain a financial advantage, or cause a financial disadvantage, in connection with any betting on the event,

is guilty of an offence.

Maximum penalty: Imprisonment for 10 years.

(2) A person who encourages another person to conceal from a relevant authority an agreement in respect of conduct that corrupts a betting outcome of an event—

(a) knowing that, or being reckless as to whether, that conduct corrupts a betting outcome of the event; and

(b) intending to obtain a financial advantage, or causing a financial disadvantage, in connection with any betting on the event,

is guilty of an offence.

Maximum penalty: Imprisonment for 10 years.

(3) In this section *relevant authority* means—

(a) a police officer or law enforcement authority; or

(b) a body that has the official function of controlling, regulating or supervising an event or betting on an event; or

(c) any other authority of a kind prescribed by regulation.

144K—Use of corrupt conduct information or inside information for betting purposes

(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—

(a) bets on the event; or

(b) encourages another person to bet on the event in a particular way; or

(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,

and the corrupt conduct information is relevant to the bet.

Maximum penalty: Imprisonment for 10 years.

(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—

(a) bets on the event; or

(b) encourages another person to bet on the event in a particular way; or

(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,

and the inside information is relevant to the bet.

Maximum penalty: Imprisonment for 2 years.

- (3) For the purposes of this section—
- (a) 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; and
 - 5 (b) information in connection with an event will be taken to be ***inside information*** if the information—
 - (i) is not generally available; and
 - (ii) 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 make any other betting decision; and
 - 10 (c) information will be taken to be ***generally available*** if—
 - (i) it consists of matter that is readily observable by the public; or
 - 15 (ii) it has been made known in a manner that would, or would be likely to, bring it to the attention of the public; or
 - (iii) it consists of deductions, conclusions or inferences made or drawn from information referred to in subparagraph (i) or (ii).
 - (4) In proceedings for an offence against subsection (1)(b) or (c) or subsection (2)(b) or (c), it is not necessary to prove that the person encouraged to bet, or to whom the information was communicated, actually bet on the event concerned.
 - 25 (5) A reference in this section to communicating information includes a reference to causing information to be communicated.
 - (6) If, on the trial of a person for an offence under subsection (1), the jury is not satisfied that the defendant is guilty of the offence charged, but is satisfied that the defendant is guilty of an offence under subsection (2), it may find the defendant not guilty of the offence charged but guilty of an offence under subsection (2), and the defendant is liable to punishment accordingly.
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