

CHAPTER 74A
SELF-EXCLUSION LIST

Authority

N.J.S.A. 5:5-30, 5:5-65.1 and 5:5-65.2.

Source and Effective Date

R.2010 d.083, effective April 14, 2010.
See: 41 N.J.R. 3785(a), 42 N.J.R. 1057(b).

Chapter Expiration Date

Chapter 74A, Self-Exclusion List, expires on April 14, 2015.

Chapter Historical Note

Chapter 74A, Self-Exclusion List, was adopted as R.2004 d.399, effective October 18, 2004. See: 36 N.J.R. 2980(a), 36 N.J.R. 4828(a).

Pursuant to Executive Order No. 1(2010), the chapter expiration date was extended from April 16, 2010 until the completion of the review of administrative regulations and rules by the Red Tape Review Group, and until such time as the extended regulation or rule was readopted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq.

Chapter 74A, Self-Exclusion List, was readopted as R.2010 d.083, effective April 14, 2010. See: Source and Effective Date.

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SUBCHAPTER 1. GENERAL PROVISIONS

13:74A-1.1 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Account wagering licensee" means the New Jersey Sports and Exposition Authority, provided that the Racing Commission has granted its approval for the Authority to establish an account wagering system consistent with N.J.A.C. 13:74.

"Off-track wagering licensee" means the New Jersey Sports and Exposition Authority, provided that the Racing Commission has granted its approval for the Authority to conduct an off-track wagering facility or facilities consistent with N.J.A.C. 13:74.

"Permit holder" means the holder of a permit issued by the Racing Commission, authorizing the holder thereof upon a racetrack premises in this State to conduct live thoroughbred or harness horse racing and to offer pari-mutuel wagering thereupon, all pursuant to N.J.A.C. 13:70 or 13:71.

"Self-exclusion list" means a list maintained by the Racing Commission, consisting of individuals who have complied with the procedure set forth in this chapter for placement thereupon.

"Self-excluded person" means an individual who has complied with the application procedure set forth in this chapter for voluntary placement upon the "self-exclusion list," whose name appears on the "self-exclusion list" maintained by the Racing Commission in accordance with this chapter, and who is subject to the provisions of this chapter.

13:74A-1.2 Applicability

This chapter and its provisions shall be equally applicable to the Racing Commission rules appearing at N.J.A.C. 13:70, Horse Racing and N.J.A.C. 13:71, Harness Racing, and to the Racing Commission rules appearing at N.J.A.C. 13:74, Off-Track Wagering and Account Wagering. See N.J.A.C. 13:70-32.1, 13:71-30.1 and 13:74-12.1.

SUBCHAPTER 2. APPLICATION FOR AND EFFECT OF PLACEMENT ON SELF-EXCLUSION LIST

13:74A-2.1 Self-exclusion list; application for placement on self-exclusion list

(a) The Racing Commission shall maintain a self-exclusion list for the purpose of effectuating N.J.S.A. 5:5-65.1 and 65.2 and this chapter, subject to the restrictions set forth in N.J.A.C. 13:74A-3.1. The Racing Commission shall make available the names and identifying information of persons who appear on the self-exclusion list to permitted racetracks in this State, to the off-track wagering licensee in this State, and to the account wagering licensee in this State.

(b) Any person may, consistent with this chapter and on a written application form provided by the Racing Commission, voluntarily request that the Racing Commission place his or her name on the self-exclusion list. The application form shall be available at the Racing Commission offices located at: 140 East Front Street (fourth floor), Trenton, New Jersey, the Meadowlands Racetrack and at the Freehold Raceway. The application shall also be available on the Racing Commission website (www.njrconline.com). The applicant shall complete, sign and date the application form authorizing placement on the self-exclusion list. The application, upon completion, shall be mailed or delivered to the New Jersey Racing Commission office address or addresses stated in the application. The application form shall include the following:

1. Identifying information consisting of: name, including any aliases or nicknames; date of birth; address of current residence; telephone number of current residence; social security number if voluntarily provided in accordance with section 7 of the Privacy Act, 5 U.S.C. § 552a; and physical description, including height, weight, gender, hair color, and any other physical characteristics that may assist in the identification of the individual;
2. An acknowledgement by the applicant that: he or she is a problem gambler; that, during the period of exclusion, he or she as a self-excluded person may not enter a permitted racetrack or off-track wagering facility for any reason and that, if he or she improperly does so, is subject to immediate ejection from and by said facility; that, during the period of voluntary exclusion, he or she as a self-excluded person may not open or maintain a wagering account with the account wagering licensee; and that he or she as a self-excluded person may not collect winnings, an item of value or recover losses resulting from or related to wagering at a racetrack, an off-track wagering facility, or from account wagering;
3. An acknowledgement by the applicant that he or she shall be placed on the self-exclusion list for a minimum period of one year;
4. An acknowledgement by the applicant that he or she has read and consents to this chapter; and

5. A certification by the applicant that the information provided on the application form is true and accurate.

(c) The Racing Commission may require that the applicant submit photographs of himself or herself, and appear at its office for the taking of photographs or for the purpose of providing additional information, before placing such person's name on the self-exclusion list or subsequent to such person's name being placed on the self-exclusion list. It shall be the applicant's responsibility to furnish to the Racing Commission in writing any change in information disclosed in the application, including address of current residence, should such information change after submission of the application to the Racing Commission.

(d) Following receipt of an application, and a determination that the application is complete, the Executive Director or designee shall send a letter to the applicant, at his or her address of current residence, indicating the date upon which his or her name will be entered on the self-exclusion list as a self-excluded person. The Executive Director or designee shall also forward the name of the self-excluded person, as well as his or her identifying information, to each permitted racetrack, the off-track wagering licensee, and to the account wagering licensee, indicating the date upon which the person's name shall be added to the self-exclusion list.

13:74A-2.2 Effect of placement on self-exclusion list; entry and wagering restrictions; forfeiture of gambling or other proceeds

(a) A person whose name appears on the self-exclusion list shall be:

1. Prohibited from entry into the premises of permitted racetracks for any reason;
2. Prohibited from entry into the premises off-track wagering facilities for any reason; and
3. Prohibited from opening or maintaining a wagering account with the account wagering system.

(b) Once a person's name is entered on the self-exclusion list, that person shall not collect winnings, recover losses or any money or thing of value subsequently arising as a result of or related to wagering activity at a permitted racetrack, at an off-track wagering facility, or from account wagering. Any winnings, money or thing of value owed to or obtained by such a self-excluded person shall be subject to forfeiture consistent with the provisions of (d) below.

(c) A person whose name appears on the self-exclusion list, and who subsequently enters a permitted racetrack or off-track wagering facility, shall be subject to immediate ejection from the facility by that facility. A person, who at the time of requesting that his or her name appear on the self-exclusion list has an open wagering account with the account wagering licensee, shall have that account closed by the account wagering licensee promptly upon the placement of said person's name on the self-exclusion list by the Racing Commission.

(d) Any money or thing of value which is obtained by, or is owed to, a person on the self-exclusion list by a permitted racetrack, licensed off-track wagering facility or by the account wagering licensee, during the time period that such person's name appears on the self-exclusion list, shall be subject to forfeiture by Order of the Racing Commission's Executive Director or designee. Any such forfeiture shall follow: notice to the self-excluded person to be sent to the residence address provided in the application for inclusion on the self-exclusion list, unless the self-excluded person has in writing advised the Racing Commission of a change of address, in which case said notice shall be sent to such current address; and the opportunity to be heard in a contested case proceeding before the Office of Administrative Law. Following the contested case proceeding before the Office of Administrative Law, and where the consideration of the recommended decision of the Office of Administrative Law by the Racing Commission results in a final decision authorizing forfeiture, the Racing Commission Executive Director shall issue an Order causing the money or thing of value to be forfeited. Any such Order shall provide that such funds are to be deposited into the State General Fund for appropriation by the Legislature to the Department of Health and Senior Services to provide funds for compulsive gambling treatment and prevention programs in the State.

SUBCHAPTER 3. CONFIDENTIALITY; EXCEPTIONS

13:74A-3.1 Confidentiality of "self-exclusion list" and application for placement on self-exclusion list; exceptions

The self-exclusion list shall be privileged and confidential. Access to the identity of individuals on the self-exclusion list shall be limited to the Racing Commission, the Racing Commission Executive Director or designee, Racing Commission employees and agents whose duties and functions require access to such information, the permitted racetracks, the licensed off-track wagering licensee, and the account wagering licensee for purposes consistent with N.J.S.A. 5:5-65.1 and 65.2 and this chapter. A permitted racetrack, the off-track wagering licensee, the account wagering licensee, or any employee or agent of either, shall not disclose the name of, or any information about, any person on the self-exclusion list to anyone other than employees or agents thereof whose duties and functions require access to such information, and as otherwise necessary for the conduct of a contested hearing before the Office of Administrative Law.

SUBCHAPTER 4. REMOVAL OF NAME FROM SELF-EXCLUSION LIST

13:74A-4.1 Application for removal of name from self-exclusion list

A person whose name appears on the self-exclusion list may, at any time after one year from the date of placement on the self-exclusion list, file a written removal application provided by the Racing Commission to have his or her name removed from the self-exclusion list. A written removal application shall be available at the Racing Commission offices located at 140 East Front Street (fourth floor), Trenton, New Jersey, the Meadowlands Racetrack and at the Freehold Raceway. The removal application shall also be available on the Racing Commission website (www.njrconline.com).

13:74A-4.2 Procedure of Racing Commission Upon Receipt of "Removal Application"

The Racing Commission Executive Director or designee, within 10 days of the receipt of a properly completed removal application filed pursuant to N.J.A.C. 13:74-4.1, shall send a letter to the applicant at his or her address of current residence as set forth in said application, advising of the date upon which his or her name will be removed from the self-exclusion list. The applicant's name shall be removed from the self-exclusion list no more than 20 days from the date of receipt of said removal application by the Racing Commission. The Racing Commission Executive Director or designee shall contemporaneously forward the person's name to each permitted racetrack, the off-track wagering licensee and to the account wagering licensee, indicating the date upon which the person's name shall be removed from the self-exclusion list.

SUBCHAPTER 5. ADMINISTRATIVE REQUIREMENTS FOR PERMITTED RACETRACKS, ACCOUNT WAGERING LICENSEE, OFF-TRACK WAGERING LICENSEE

13:74A-5.1 Internal control procedures to be developed by permitted racetracks, licensed off-track wagering facilities and account wagering licensee

(a) The permitted racetracks, account wagering licensee and off-track wagering licensee shall each develop and implement written internal control procedures, to be approved in advance of implementation by the Racing Commission Executive Director or designee. The internal control procedures shall be designed to facilitate the purposes of this chapter, including that:

1. Persons whose names appear on the self-exclusion list are not knowingly permitted access to their respective premises;

2. Persons whose names appear on the self-exclusion list, who improperly access such premises, are ejected from such premises promptly upon the detection of their presence;

3. Persons who improperly access such premises, who are determined to have wagered prior to detection but have not yet been paid on any winning wagers, have the proceeds from wagering or any item of value associated with wagering withheld from payment or distribution to them;

4. Persons whose names appear on the self-exclusion list are precluded from opening or maintaining wagering accounts;

5. Any existing wagering account of persons whose names are entered on the self-exclusion list be closed;

6. Persons whose names appear on the self-exclusion list, and who are determined to have subsequently improperly opened a wagering account, have the proceeds from wagering or any item of value associated with wagering withheld from payment or distribution to them;

7. Persons on the self-exclusion list are removed from targeted mailings or other forms of advertising or promotions and to deny such persons access to credit, complementaries, check cashing privileges, club programs or similar benefit;

8. Persons whose names once appeared on the self-exclusion list in accordance with this subchapter, but whose names are subsequently removed from the self-exclusion list also in accordance with this chapter, are promptly made eligible to access such premises and wager on such premises; and

9. Persons whose names once appeared on the self-exclusion list in accordance with this rule, but whose names are subsequently removed from the self-exclusion list also in accordance with this rule, are made eligible to open and maintain a wagering account.

(b) Each permit holder, the account wagering licensee and the off-track wagering licensee shall submit to the Racing Commission for approval a copy of the internal control procedures required by (a) above by November 7, 2004. Any amendments to said procedures shall be submitted to the Executive Director or designee for approval, prior to implementation.

13:74A-5.2 Reporting responsibilities to Racing Commission

Each permit holder, the account wagering licensee and the off-track wagering licensee shall promptly notify the Racing Commission Executive Director or designee in writing of any incident which occurs in violation of this chapter or of the internal control procedures implemented pursuant to the procedure set forth in N.J.A.C. 13:74A-5.1.

SUBCHAPTER 6. PENALTIES; LIMITATIONS ON LIABILITY

13:74A-6.1 Permitted racetracks, licensed off-track wagering facilities, account wagering licensee; responsible employees or agents; penalties for violations

(a) Any racetrack permit holder, off-track wagering licensee or account wagering licensee, and any responsible employee or agent thereof who willfully violates this chapter, shall be subject to a permit or license suspension, a fine not to exceed \$5,000 per wagering incident, the forfeiture of money or a thing of value obtained by the permit holder, off-track wagering licensee or account wagering licensee, and such other remedial conditions which the Racing Commission deems appropriate. Where the Racing Commission orders such a forfeiture, it shall cause the proceeds of the forfeiture to be deposited into the State General Fund for appropriation by the Legislature to the Department of Health and Senior Services to provide funds for compulsive gambling treatment and prevention programs in the State.

(b) No penalty shall be imposed pursuant to this subchapter unless notice of the allegations and an opportunity to be heard is first afforded in accordance with the Administrative Procedures Act, N.J.S.A. 52:14B-1.1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

13:74A-6.2 Limitation on liability of the State, Racing Commission, Racing Commission permit holders and licensees

The State of New Jersey, the Department of Law and Public Safety and its employees, the Racing Commission and its employees, permitted racetracks and their employees, the off-track wagering licensee and its employees, and the account wagering licensee and its employees, shall not be liable to any person requesting self-exclusion and his or her heirs, administrators, executors and assigns for any harm, monetary or otherwise, which may arise out of or by reason of any act or omission relating to the request for self-exclusion or request for removal from the self-exclusion list including: its processing or enforcement; the failure of a New Jersey Racing Commission licensee or permit holder to withhold wagering privileges from, or restore wagering privileges to, a self-excluded person; permitting a self-excluded person to gain entry to and/or wager at a permitted racetrack or off-track wagering facility, or wager through the account wagering system while on the self-excluded list; disclosure of the information contained in a self-exclusion application or an individual on the self-exclusion list, except for a willful unlawful disclosure of such information; and the exercise of duties pursuant to the administration or enforcement of these rules.