

TOTALIZATOR (AMENDMENT) ACT.

Act No. 50, 1957.

Elizabeth II,
No. 50, 1957.

An Act to make further provisions with respect to the establishment and use of totalizators; for this and other purposes to amend the Totalizator Act, 1916-1952; and for purposes connected therewith. [Assented to, 2nd December, 1957.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Totalizator (Amendment) Act, 1957".

Short title
and
citation.

(2) The Totalizator Act, 1916, as amended by subsequent Acts and by this Act, may be cited as the Totalizator Act, 1916-1957.

2. The Totalizator Act, 1916-1952, is amended—

Amendment
of Act No.
75, 1916.

(a) by omitting from section two the definition of "The totalizator";

Sec. 2.
(Defini-
tions.)

(b) by inserting next after section three the following new section:—

New sec. 3A.

3A. (1) Notwithstanding anything contained in any Act relating to gaming, betting, or wagering, the Minister may, subject to such terms and conditions as he may impose, approve of the establishment and use of a totalizator by any racing

Power of
Minister to
approve use
of
totalizator.

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racing club, or by two or more racing clubs jointly, on all or any racecourses on which it or they hold race-meetings, or on any enclosure in any such racecourse.

The Minister may, for any reason he deems fit, revoke any such approval and may vary the terms and conditions attaching to any such approval.

(2) If a racing club or two or more racing clubs jointly use a totalizator without the approval of the Minister or otherwise than in accordance with any terms and conditions to which such approval is subject it or they shall be liable to a penalty not exceeding one hundred pounds for every day on which such use has occurred.

This subsection shall not apply to a racing club using a totalizator in pursuance of any direction given under section three of this Act.

(3) Without prejudice to the generality of the provisions of subsection one of this section the types of totalizator which may be established and used pursuant to this section shall include those in respect of which the rules make—

(a) provision that if the event or contingency on the happening of which dividends are payable does not happen on any day on which such totalizator is used on any racecourse the investments on such totalizator on that day or any part of such investments (hereinafter called the “transferred investments”) shall be added to and form part of the investments on such totalizator on any subsequent day at the same or different racecourse; or

(b) provision of a similar nature.

(4)

(4) Where two or more clubs jointly establish and use a totalizator pursuant to this section a reference— **No. 50, 1957.**

- (a) in this Act (except as hereinafter provided), the regulations or rules thereunder to a club shall, unless the context or subject matter otherwise requires, be read and construed as a reference to the clubs jointly establishing and using such totalizator;
- (b) in section seven of this Act to the club where secondly and thirdly occurring and in section eleven to the club shall be read and construed as a reference to the club on whose racecourse such totalizator is being used.

(5) Where it appears to the Governor that any provision of this Act requires modification, amendment or alteration, or that additional provision should be made, so that the establishment and use of any particular type of totalizator established and used pursuant to this section may be effectively regulated and controlled he may by regulation modify, amend or alter such provision or make such additional provision as he may deem desirable.

(6) Where a totalizator of a type referred to in subsection three of this section is established or used and deductions by way of commission have been made from investments on such totalizator on the day on which such investments were made no further deductions by way of commission shall be made on any transferred investments.

- (c) by inserting next after section four the following new section:— **New sec. 4A.**

4A. Any totalizator established pursuant to the provisions of this Act on any racecourse or on any enclosure in any racecourse may be used only on days on which race-meetings are held on **Days and races on which totalizators may be used.**

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on such racecourse and may be so used in connection with any races to be run on any such day and on any subsequent day on that racecourse or on any other racecourse within or outside New South Wales.

Subst.
sec. 8.

(d) by omitting section eight and by inserting in lieu thereof the following section:—

Commission.

8. (1) Every club using a totalizator under the provisions of this Act shall deduct from the total moneys paid into such totalizator in respect of any event or contingency any amounts refundable to investors on a non-starter in accordance with the regulations and rules and shall deduct from the amount then remaining twelve and one-half per centum as commission.

(2) (a) Every such club excepting those specified in paragraph (b) of this subsection shall pay to the Colonial Treasurer to be carried to the Consolidated Revenue Fund an amount equal to three-fifths of the amount to be deducted as commission in accordance with subsection one of this section and may retain the amount of such commission then remaining.

(b) Every club using a totalizator under the provisions of this Act and which—

- (i) conducts race-meetings on the Menangle Park racecourse; or
- (ii) conducts race-meetings on the Hawkesbury racecourse; or
- (iii) conducts race-meetings on a racecourse situated beyond forty miles from the General Post Office, Sydney,

shall pay to the Colonial Treasurer to be carried to the Consolidated Revenue Fund an amount equal to nine twenty-fifths of the amount to be deducted as commission in accordance with subsection one of this section and may retain the amount of such commission then remaining.

(3)

(3) The payment to the Colonial Treasurer in pursuance of this section shall be made within fourteen days after the happening of the event or contingency in relation to which a totalizator was used. No. 50, 1957.

If the payment is not made within such time an additional payment amounting to ten per centum of the amount unpaid shall be payable by the club to the Colonial Treasurer to be carried to the Consolidated Revenue Fund.

The Colonial Treasurer may in any case in which he may deem fit forego the whole or any part of such additional payment or give time for the payment thereof.

- (e) by omitting sections nine and 9A and by inserting Subst. secs.
9 and 9A. in lieu thereof the following sections:—

9. (1) Every club using a totalizator shall, upon the happening of any event or contingency in relation to which such totalizator was used, pay (after making the deductions prescribed by this Act) by way of dividends all moneys received from investments on such totalizator in respect of such event or contingency: Distribution
of
dividends.

Provided that it shall not be necessary to pay any fraction of a sixpence unless such fraction amounts to or exceeds threepence, in which case threepence shall be paid.

(2) All unpaid fractions of sixpence shall, within fourteen days after the happening of the event or contingency in relation to which a totalizator was used, be paid to the Colonial Treasurer to be carried to the Consolidated Revenue Fund.

(3) All dividends declared payable, and all amounts refundable to investors in accordance with the regulations and rules, in respect of any event or contingency in respect of which a totalizator was used and remaining unclaimed for a period of one month after the happening of such event or contingency shall, within
fourteen

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fourteen days after the expiration of such period, be paid to the Colonial Treasurer to be carried to the Consolidated Revenue Fund.

(4) If any member, officer, agent or servant of any such club makes, authorises, or permits the payment to any person of any dividend in respect of any event or contingency which is not calculated in accordance with the provisions of this Act, the regulations and rules thereunder he shall be liable to a penalty not exceeding twenty pounds.

Any club which pays any dividend in respect of any event or contingency which is not calculated in accordance with the provisions of this Act, the regulations and rules thereunder shall be liable to a penalty not exceeding one hundred pounds.

Dividends
Adjustment
Fund.

9A. (1) Where an incorrect dividend is declared and paid in relation to any event or contingency, the committee or executive body of the club using the totalizator on such event or contingency shall, as soon as practicable after such declaration, deposit with the Colonial Treasurer a full and true report under the hand of the secretary of the club, or the hands of two members of such committee or executive body, as to how the error arose, with such other information as may be prescribed by regulation.

(2) Every club using the totalizator shall establish a fund to be known as the "Dividends Adjustment Fund".

(3) Where an incorrect dividend is declared and paid in relation to any event or contingency and such dividend is—

(a) less than; or

(b) greater than

the dividend which should have been declared, the difference between the total moneys payable by way of dividends by the club and the total

moneys

moneys which would have been payable by way of dividends by the club if the correct dividend had been declared shall, in any case where paragraph (a) of this subsection applies, be credited to, and in any case where paragraph (b) of this subsection applies, be debited against, the Dividends Adjustment Fund. Each such difference shall be credited to or debited against the Dividends Adjustment Fund as at the date on which the dividend to which it relates was declared:

Provided that if in the opinion of the Auditor-General the declaration and payment of the incorrect dividend was occasioned by the negligence or the wilful action of a member, officer, agent or servant of the club (and the onus of proving to the satisfaction of the Auditor-General that it was not so occasioned shall lie upon the club) the amount of such difference shall not be credited to or debited against such fund. Any loss to the club arising from such difference not being debited to such fund shall be borne by such club and any amount which would have been credited to such fund but for this proviso shall be paid by the club to the Colonial Treasurer to be carried to the Consolidated Revenue Fund.

(4) The Dividends Adjustment Fund shall be adjusted as soon as practicable after the commencement of the Totalizator (Amendment) Act, 1957, and thereafter at intervals terminating on the first day of June and the first day of December in each year. At the close of business on the appropriate day the amount of any balance to the credit of such fund shall be paid by the club to the Colonial Treasurer to be carried to the Consolidated Revenue Fund and the amount of any balance to the debit of such fund shall be carried forward by the club to the debit of such fund for the next succeeding period.

(5)

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(5) Notwithstanding any of the provisions of this section the amount payable by the club to the Colonial Treasurer under sections eight and nine of this Act for commission and fractions of sixpence in respect of any event or contingency in relation to which an incorrect dividend has been declared and paid shall be the amounts of commission and fractions that would have been payable by the club if the correct dividend had been declared.

Sec. 9B.
(Unclaimed
moneys.)

(f) (i) by omitting from subsection one of section 9B the words "be paid within one month of the date of the race-meeting at which such moneys were received to the Colonial Treasurer for the use of the public revenue" and by inserting in lieu thereof the words "within one month after the happening of the event or contingency in relation to which such moneys were received be paid to the Colonial Treasurer to be carried to the Consolidated Revenue Fund";

(ii) by omitting subsection three of the same section;

Sec. 10.
(Power of
Minister to
assume
control of
totali-
zator.)

(g) (i) by omitting subsection two of section ten and by inserting in lieu thereof the following subsection:—

(2) Where a totalizator is used by the Minister in pursuance of this section he shall deduct from the total moneys paid into the totalizator in respect of any event or contingency any amounts refundable to investors on a non-starter in accordance with the regulations and rules and shall deduct from the amount then remaining twelve and one-half per centum as commission.

The

The amount so deducted as commission, **No. 50, 1957.**
less all necessary expenses, shall be paid
into the Treasury to be carried to the
Consolidated Revenue Fund.

- (ii) by omitting from subsection three of the same section the words “(after making deduction as aforesaid) pay” and by inserting in lieu thereof the words “upon the happening of any event or contingency in relation to which such totalizator was used pay (after making the deductions prescribed by this Act)”;
- (iii) by inserting at the end of the same section the following new subsections:—
 - (4) All unpaid fractions of sixpence shall be paid into the Treasury to be carried to the Consolidated Revenue Fund.
 - (5) All dividends declared payable, and all amounts refundable to investors in accordance with the regulations and rules, in respect of any event or contingency in respect of which a totalizator was used by the Minister in pursuance of this section and remaining unclaimed for a period of one month after the happening of such event or contingency shall be paid into the Treasury to be carried to the Consolidated Revenue Fund.
- (h) by omitting section eleven and by inserting in Subst. sec. 11. lieu thereof the following section:—

11. (1) The committee or executive body of Returns. any club using a totalizator shall deposit with the Colonial Treasurer returns with such details as may be prescribed by regulation, setting out a full and true account of—

 - (a) the moneys invested on such totalizator in respect of each event or contingency and where the totalizator is of the type referred to in paragraph (a) or (b) of subsection three of section 3A of this

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this Act the moneys invested on such totalizator on each and every day such totalizator is used;

- (b) all dividends declared payable, and all amounts refundable to investors in accordance with the regulations and rules, in respect of each event or contingency in relation to which such totalizator is used remaining unclaimed for a period of one month after the happening of the event or contingency to which it relates.

(2) The return referred to in paragraph (a) of subsection one of this section shall be deposited with the Colonial Treasurer within fourteen days after the happening of the event or contingency to which it relates or, each and every day the totalizator is used, as the case may be.

The return referred to in paragraph (b) of subsection one of this section shall be deposited with the Colonial Treasurer within fourteen days after the expiration of the period referred to therein.

(3) Each such return shall be given under the hand of the secretary of the club or the hands of two members of the committee or executive body of the club.

(4) If the committee or executive body of any club using the totalizator fails to comply with the provisions of this section, each member thereof shall be liable to a penalty of not more than fifty pounds.

Savings.

3. Any totalizator established or used pursuant to any permission granted by the Minister under subsection three of section nine of the Totalizator Act, 1916-1952, may be continued to be used after the commencement of this Act as if it had been established and used with the approval of the Minister under the Totalizator Act, 1916-1952, as amended by this Act.

COMPANIES