

TOTALIZATOR (AMENDMENT) ACT 1991 No. 32

NEW SOUTH WALES



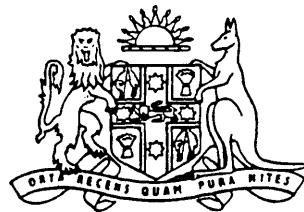
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TOTALIZATOR (AMENDMENT) ACT 1991 No. 32

NEW SOUTH WALES



Act No. 32, 1991

An Act to amend the Totalizator Act 1916 with respect to the engagement by racing clubs of independent contractors to conduct totalizator betting at race-meetings held by those clubs; the distribution of money invested on totalizators used by racing clubs; offences relating to totalizator betting; and other matters. [Assented to 8 October 1991]

Totalizator (Amendment) 1991

The Legislature of New South Wales enacts:**Short title**

1. This Act may be cited as the Totalizator (Amendment) Act 1991.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Amendment of Totalizator Act 1916 No. 75

3. The Totalizator Act 1916 is amended as set out in Schedule 1.

Saving

4. An inspector appointed by the Governor under section 18 of the Totalizator Act 1916 (as in force immediately before the commencement of Schedule 1 (16)) is taken to have been appointed as an inspector by the Minister under that section (as in force after that commencement).

SCHEDULE 1—AMENDMENTS

(Sec. 3)

(1) Section 2 (Definitions):

- From the definition of “Horse race”, omit “or pony race”.
- From the definitions of “Race-meeting” and “Racing club”, omit “, greyhound-racing, or pony-racing” wherever occurring, insert instead “or greyhound-racing”.
- After the definition of “The rules”, insert:

“Totalizator” means:

- a system used to enable persons to invest money on horse races or greyhound races with a view to successfully predicting specified outcomes of those races and to enable the money left after providing for the payment of commission to be divided and distributed among those persons who successfully predict those outcomes; and

Totalizator (Amendment) 1991

SCHEDULE 1—AMENDMENTS—*continued*

(b) any instrument, machine or device through or by which the system is operated and, in particular, for showing the number of investments made on those races and the amounts of those investments.

(2) Section 3 (**Power of Minister to direct use of totalizator**):
Omit the section.

(3) Section 3A (**Power of Minister to approve use of totalizator**):
From section 3A (1), omit “, or on any enclosure in any such racecourse”.

(4) Section 4A (**Days on which, and races for which, totalizators may be used**):
Omit “or on any enclosure in any racecourse”.

(5) Section 7:
Omit the section, insert instead:
Management of totalizator
7. (1) A racing club must ensure that every totalizator that it uses under this Act:
(a) is under the care and management of a competent person employed by the club or an independent contractor engaged under this section; and
(b) is conducted under the direct supervision of the stewards or committee of the club.
(2) A racing club may engage a competent independent contractor to operate on its behalf a totalizator that the club uses under this Act.
(3) For the purposes of this Act, whenever a racing club has engaged an independent contractor under this section, anything done or omitted to be done by the contractor in relation to the use of a totalizator while so engaged is taken to have been done or omitted to be done by the club as its agent or, if the case so requires, by the committee or executive body of the club as agent of that committee or body.

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SCHEDULE 1—AMENDMENTS—*continued*

(4) The Minister may, by notice in writing, require a racing club that has engaged an independent contractor to operate a totalizator on its behalf to terminate the engagement on the grounds that:

- (a) the contractor is operating the totalizator of another totalizator established by that or another racing club in a dishonest or corrupt manner or in a manner that is otherwise unlawful; or
- (b) the contractor has failed to comply with a term or condition attached to the Minister's approval for the establishment and use of the totalizator or of another totalizator approved for use under this Act; or
- (c) the contractor is otherwise not a fit and proper person to operate the totalizator on behalf of the club.

(5) The Minister must not make such a requirement unless the racing club concerned has been given an opportunity to make representations to the Minister as to why the requirement should not be made.

(6) A racing club must comply with such a requirement within such period as is specified in the notice to the club notifying it of the requirement.

(7) Without limiting the generality of section 3A (1), failure to comply with such a requirement is a ground for revoking the Minister's approval to the establishment and use of the totalizator concerned.

(8) Neither the Minister nor the racing club concerned is liable to pay damages arising from the termination of the engagement of an independent contractor as a direct consequence of such a requirement.

(9) Any racing club that has, before the commencement of Schedule 1 (5) to the Totalizator (Amendment) Act 1991, engaged an independent contractor to operate a totalizator on behalf of the club is declared to have and always to have had the power to enter into the engagement and the engagement of the contractor is declared to have been as lawful as it would have been if subsection (2) had been in force when the engagement was entered into.

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SCHEDULE 1—AMENDMENTS—*continued*(6) Section 8 (**Distribution of money invested on totalizators established and used at Sydney metropolitan racecourses**):

Omit section 8 (l), insert instead:

(1) This section applies to every totalizator established and used under this Act:

(a) at the Randwick Racecourse, the Canterbury Racecourse, the Rosehill Racecourse or the Warwick Farm Racecourse; or

(b) at the Wentworth Park Racecourse or the Harold Park Paceway; or

(c) at any other racecourse specified by the regulations as being a racecourse to which this section applies,

and applies to every superfecta totalizator established and used under this Act at any racecourse in New South Wales.

(7) Section 8A (**Distribution of money invested on totalizators other than those to which section 8 applies**):

(a) Omit section 8A (l), insert instead:

(1) This section applies to every totalizator established and used under this Act other than a totalizator to which section 8 applies.

(b) From section 8A (3) (a), omit “or (e)”, insert instead “, (e) or (e1)”.

(c) From section 8A (3) (c), omit “at a racecourse other than one referred to in subsection (1)”, insert instead “located at a racecourse referred to in section 8 (1) (a), (b) or (c)”.

(d) From section 8A (3) (d), omit “at a racecourse referred to in subsection (1)”, insert instead “located at a racecourse other than one referred to in section 8 (1) (a), (b) or (c)”.

(e) Omit section 8A (3) (e), insert instead:

(e) of that part (if any) of that balance which is derived from bets made under section 3B with another racing club located at a racecourse referred to in section 8 (1) (a):

SCHEDULE 1—AMENDMENTS—*continued*

- (i) 5 per cent shall be paid to that other club for payment by that other club as commission to the Minister for crediting to the Consolidated Fund;
- (ii) 3 per cent shall be paid as commission to that other club for its own use; and
- (iii) 6 per cent shall be retained as commission by the club on whose totalizator the bets were placed:
- (e1) of that part (if any) of that balance which is derived from bets made under section 3B with another racing club located at a racecourse referred to in section 8 (1) (b) or (c):
 - (i) 8 per cent shall be paid to that other club for payment by that other club as commission to the Minister for crediting to the Consolidated Fund; and
 - (ii) 6 per cent shall be paid as commission to that other club for its own use; and
- (f) From section 8A (4) (a), omit “or (e)”, insert instead “, (e) or (e1)”.
- (g) From section 8A (4) (c), omit “at a racecourse other than one referred to in subsection (1)”, insert instead “located at a racecourse referred to in section 8 (1) (a), (b) or (c)”.
- (h) From section SA (4) (d), omit “at a racecourse referred to in subsection (1)”, insert instead “located at a racecourse other than one referred to in section 8 (1) (a), (b) or (c)”.
- (i) Omit section 8A (4) (e), insert instead:
 - (e) of that part (if any) of that balance which is derived from bets made under section 3B with another racing club located at a racecourse referred to in section 8 (1) (a):
 - (i) 6.5 per cent shall be paid to that other club for payment by that other club as commission to the Minister for crediting to the Consolidated Fund;
 - (ii) 0.5 per cent shall be paid to that other club for payment by that other club as commission to the Minister for crediting to the Racecourse Development Fund;

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SCHEDULE 1—AMENDMENTS—*continued*

- (iii) 3 per cent shall be paid as commission to that other club for its own use; and
- (iv) 6 per cent shall be retained by the club on whose totalizator the bets were placed;
- (e1) of that part (if any) of that balance which is derived from bets made under section 3B with another racing club located at a racecourse referred to in section 8 (1) (b) or (c):
 - (1) 9.5 per cent shall be paid to that other club for payment by that other club as commission to the Minister for crediting to the Consolidated Fund;
 - (ii) 0.5 per cent shall be paid to that other club for payment by that other club as commission to the Minister for crediting to the Racecourse Development Fund; and
 - (iii) 6 per cent shall be paid as commission to that other club for its own use; and
- (j) from section 8A (5) (a), omit “or (e)”, insert instead “, (e) or (e1)”.
- (k) From section 8A (5) (c), omit “at a racecourse other than one referred to in subsection (l)”, insert instead “located at a racecourse referred to in section 8 (1) (a), (b) or (c)”.
- (l) From section 8A (5) (d), omit “at a racecourse referred to in subsection (l)”, insert instead “located at a racecourse other than one referred to in section 8 (1) (a), (b) or (c)”.
- (m) Omit section 8A (5) (e), insert instead:
 - (e) of that part (if any) of that balance which is derived from bets made under section 3B with another racing club located at a racecourse referred to in section 8 (1) (a):
 - (i) 6.5 per cent shall be paid to that other club for payment by that other club as commission to the Minister for crediting to the Consolidated Fund;
 - (ii) 0.5 per cent shall be paid to that other club for payment by that other club as commission to the Minister for crediting to the Racecourse Development Fund;

SCHEDULE 1—AMENDMENTS—*continued*

- (iii) 3 per cent shall be paid as commission to that other club for its own use; and
- (iv) 7 per cent shall be retained by the club on whose totalizator the bets were placed;
- (e1) of that part (if any) of that balance which is derived from bets made under section 3B with another racing club located at a racecourse referred to in section 8 (1) (b) or (c):
 - (i) 9.5 per cent shall be paid to that other club for payment by that other club as commission to the Minister for crediting to the Consolidated Fund;
 - (ii) 0.5 per cent shall be paid to that other club for payment by that other club as commission to the Minister for crediting to the Racecourse Development Fund; and
 - (iii) 7 per cent shall be paid as commission to that other club for its own use: and

(8) Section 9C (Determination of dividend):

Omit section 9C (3) (b), insert instead:

- (b) more than that unit but less than the sum of that unit and 5 cents,

(9) Section 10 (Power of Minister to assume control of totalizator):

Omit the section.

(10) Section 11 (Returns):

Omit section 11 (3), insert instead:

- (3) The returns referred to in this section must be signed by:

- (a) the secretary of the club; or
- (b) not fewer than 2 members of the committee or executive body of the club; or
- (c) some other person designated by the club (being a person, or a person of a class of persons, authorised by the Minister to sign returns on behalf of the club or racing clubs generally).

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SCHEDULE 1—AMENDMENTS—*continued*

(11) Section 12:

Omit the section, insert instead:

Offence for persons under 18 years of age to bet by means of totalizator

12. (1) Any person under 18 years of age who makes or attempts to make a bet by means of a totalizator is guilty of an offence.

Maximum penalty: 1 penalty unit.

(2) A person may not be convicted of such an offence unless it is proved that, when the bet or attempt was made, there was affixed to the building at which the betting was conducted, in a conspicuous place, a legible notice to the effect that it is an offence for a person under 18 years of age to make a bet by means of the totalizator.

(3) A racing club is guilty of an offence if it conducts betting by means of a totalizator at a building that does not have such a notice affixed to it in a conspicuous place.

Maximum penalty: 1 penalty unit.

(4) A person under 18 years of age may not be imprisoned, or detained in a detention centre, as a consequence of a failure to pay a penalty under this section.

(12) Section 15 (Penalty on persons acting as totalizator agents):

Omit the section.

(13) Section 16:

Omit the section, insert instead:

Officers of racing clubs not to accept instructions given by telephone etc. as to investments on totalizator

16. (1) An officer, agent or employee of a racing club must not accept or act on a request, instruction or direction relating to investments on a totalizator, whether received on a racecourse or elsewhere, if the request, instruction or direction is made or given by telephone or by any kind of electronically transmitted message.

Maximum penalty: 1 penalty unit.

SCHEDULE 1—AMENDMENTS—*continued*

(2) This section does not prevent such a request, instruction or direction from being made or given by telephone or by any kind of electronically transmitted message if the request, instruction or direction:

- (a) is made or given for the purpose of conducting totalizator betting in accordance with section 3B; or
- (b) is made or given by the Totalizator Agency Board when acting as the agent of a racing club.

(14) Section 17 (**Member, officer etc, of racing club not to invest on totalizator after start of race**):

Omit “Any person committing a breach of the provisions of this section shall be liable on conviction to a penalty not exceeding one hundred dollars.”, insert instead:

Maximum penalty: 20 penalty units.

(15) Section 17A:

After section 17, insert:

Person not to invest on totalizator after finish of race

17A. (1) A person must not make, or attempt to make, an investment on a totalizator with respect to a race knowing that the race has already finished.

Maximum penalty: 20 penalty units.

(2) If a Local Court finds a person guilty of an offence against this section, the Court may, in addition to any penalty imposed for the offence, order the person to pay an amount equal to the amount (if any) derived from the investment concerned.

(3) Any amount recovered under subsection (2) is required to be paid into the Consolidated Fund.

(16) Section 18 (**Inspectors**):

- (a) Omit “Governor”, insert instead “Minister”.
- (b) Omit “containing a totalizator”, insert instead “that contains a totalizator or is associated with the operation of the totalizator”.

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SCHEDULE 1—AMENDMENTS—*continued*

(17) Section 19 (**Persons hindering inspectors in execution of their duty**):

Omit “or building containing a totalizer”, insert instead “, or any building that contains or is associated with the operation of a totalizer.”

*[Minister's second reading speech made in—
Assembly on 22 August 1991
Legislative Council on 25 September 1991]*