



New South Wales

Totalizator Regulation 2012

under the

Totalizator Act 1997

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Totalizator Act 1997*.

GEORGE SOURIS, MP

Minister for Tourism, Major Events, Hospitality and Racing

Explanatory note

The object of this Regulation is to remake, without substantive changes, the *Totalizator Regulation 2005* which is repealed on 1 September 2012 by section 10 (2) of the *Subordinate Legislation Act 1989*.

The Regulation deals with the following matters:

- (a) an exemption from section 33 of the *Totalizator Act 1997*, which prohibits a person from being entitled to more than 10% of the total number of voting shares in the licensee under that Act (being TAB Limited) (Part 2),
- (b) responsible gaming practices, including the following:
 - (i) the provision of problem gambling brochures,
 - (ii) the information and warnings required to be printed on totalizator betting printed entry forms and betting tickets,
 - (iii) the display of notices relating to the G-line counselling service,
 - (iv) controls on advertising and inducements relating to totalizator betting (Part 3),
- (c) the prescription of certain persons as key employees in relation to the conduct of a totalizator for the purposes of the *Totalizator Act 1997* (clause 14),
- (d) prescribing certain offences for the purposes of section 103A (Remedial orders) of the *Totalizator Act 1997*, which permits a court that finds a person guilty of a prescribed offence to make certain orders in respect of the person (in addition, or as an alternative, to any penalty that it may impose for the offence), including orders that the person undertake a specified course of training that the court considers will promote responsible practices in the conduct of betting activities by the person (clause 15),

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(e) matters of a savings or machinery nature (clause 16 and Part 1).

This Regulation is made under the *Totalizator Act 1997*, including sections 5 (definition of *key employee*), 31 (concerning shareholding restrictions), 103A (concerning remedial orders), 117 (the general regulation-making power), and 117A (concerning responsible conduct of totalizators, totalizator betting and other betting activities).

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Clause 1 Totalizator Regulation 2012

Part 1 Preliminary

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Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Totalizator Regulation 2012*.

2 Commencement

This Regulation commences on 1 September 2012 and is required to be published on the NSW legislation website.

Note. This Regulation replaces the *Totalizator Regulation 2005* which is repealed on 1 September 2012 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

Authority means the Independent Liquor and Gaming Authority constituted under the *Gaming and Liquor Administration Act 2007*.

problem gambling information means the Gambling Help line phone number operated under contractual arrangements made by the NSW Office of Liquor, Gaming and Racing.

the Act means the *Totalizator Act 1997*.

(2) Notes included in this Regulation do not form part of this Regulation.

Part 2 Relevant interests in shares

4 Exemption from prohibited shareholding interest provisions

- (1) For the purposes of section 31 (7) of the Act, the relevant interest that a relevant body has in shares of a licensee is to be disregarded for the purpose of determining whether the body has a prohibited shareholding interest (as referred to in section 33 of the Act) in the licensee if:
 - (a) in the case of an authorised trustee corporation:
 - (i) the shares are held by the authorised trustee corporation in its capacity as trustee of a trust, undertaking or scheme or by a custodian on behalf of the authorised trustee corporation in that capacity, and
 - (ii) the trust, undertaking or scheme is governed by an approved deed, and
 - (b) in the case of a registered scheme—the shares are held on trust by the responsible entity for the scheme, and
 - (c) neither the authorised trustee corporation, responsible entity or the custodian (if any), nor any related body corporate of the corporation, scheme or custodian, determines the manner in which voting rights attached to the shares are exercised.
- (2) The Minister may, by notice in writing given to a relevant body, direct that this clause is not to apply to:
 - (a) a relevant body, or
 - (b) a specified shareholding of the relevant body.
- (3) This clause does not apply to a relevant body, or a specified shareholding of a relevant body, that is the subject of a direction given in accordance with subclause (2).
- (4) In this clause:

approved deed means a deed that is an approved deed for the purposes of Division 5 of Part 7.12 of the *Corporations Law* (as it continues to apply pursuant to section 1454 of that Law and section 1408 of the *Corporations Act 2001* of the Commonwealth).

Note. Division 5 of Part 7.12 of the *Corporations Law*, although repealed by the *Managed Investments Act 1998* of the Commonwealth, continues to apply to certain interests, undertakings and trustees pursuant to section 1454 of that Law (as continued in force by section 1408 of the *Corporations Act 2001* of the Commonwealth).

authorised trustee corporation has the meaning it had in the *Corporations Law* immediately before the commencement of the *Managed Investments Act 1998* of the Commonwealth.

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Part 2 Relevant interests in shares

registered scheme has the same meaning as in the *Corporations Act 2001* of the Commonwealth.

related body corporate has the same meaning as in the *Corporations Act 2001* of the Commonwealth.

relevant body means any of the following:

- (a) an authorised trustee corporation,
- (b) the responsible entity for a registered scheme,
- (c) a related body corporate of such a corporation or scheme.

responsible entity of a registered scheme has the same meaning as in the *Corporations Act 2001* of the Commonwealth.

Part 3 Responsible gambling practices

Division 1 Problem gambling signage and information

5 Approval of gambling information brochures

- (1) The Authority may approve one or more pamphlets or brochures containing problem gambling information in the English language (a *problem gambling information brochure*).
- (2) A problem gambling information brochure must contain advice in the Arabic, Chinese, Korean, Turkish and Vietnamese languages that:
 - (a) indicates the substance of the information contained in English in the brochure, and
 - (b) advises that the information will be supplied by the licensee in the relevant language on request.
- (3) Subclause (2) does not prevent a problem gambling information brochure under this clause from containing other information.
- (4) The Authority may approve one or more pamphlets or brochures containing problem gambling information in the Arabic, Chinese, Korean, Turkish and Vietnamese languages (a *community language problem gambling information brochure*).
- (5) The Authority may vary or withdraw any approval given under this clause.

6 Provision of problem gambling information brochures

- (1) A licensee must ensure that:
 - (a) copies of at least one type of problem gambling information brochure approved by the Authority under clause 5 (1) are made available in each part of the premises on which totalizator betting is being conducted under the licence, and
 - (b) those copies are displayed in such a manner and in such a place that it would be reasonable to expect that a person in the part of the premises in which the brochures are displayed would be alerted to their presence.Maximum penalty: 50 penalty units.
- (2) The brochure must be in a form approved by the Authority and be obtained from the NSW Office of Liquor, Gaming and Racing.

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Part 3 Responsible gambling practices

7 Provision of community language problem gambling information brochures

- (1) A person may request a licensee to supply a community language problem gambling information brochure approved by the Authority under clause 5 (4) in one of the languages specified in that subclause.
- (2) A licensee must supply a community language problem gambling information brochure in accordance with a request made under subclause (1) as soon as practicable after being requested to do so.
Maximum penalty: 50 penalty units.
- (3) The brochure must be in a form approved by the Authority and be obtained from the NSW Office of Liquor, Gaming and Racing.

8 Gambling information and warnings

A licensee must ensure that each printed entry form (however described) and betting ticket in a totalizator conducted by the licensee contains the following:

Think! About your choices

Call Gambling Help

1800 858 858

www.gamblinghelp.nsw.gov.au

Maximum penalty: 50 penalty units.

9 Counselling signage—notice to be displayed

- (1) A licensee must:
 - (a) display a notice that complies with this clause in each part of the premises in which totalizator betting is conducted by the licensee, and
 - (b) display the notice in such a manner and in such a place that it would be reasonable to expect that a person using the part of the premises in relation to which the notice is displayed would be alerted to its contents.

Maximum penalty: 50 penalty units.

- (2) The notice must contain the following:

Think! About your choices

Gambling More, enjoying it less?

For free and confidential information and advice about problem gambling, please contact Gambling Help

1800 858 858

www.gamblinghelp.nsw.gov.au

- (3) The notice must be in a form approved by the Authority and be obtained from the NSW Office of Liquor, Gaming and Racing.

10 ATM and EFT signage

- (1) A licensee must display a notice in accordance with this clause in a prominent position on or adjacent to each automatic teller machine (ATM) and electronic funds transfer facility (EFT) located on the premises on which totalizator betting is being conducted under the licence.

Maximum penalty: 50 penalty units.

- (2) The notice must contain the following:
 Think! About your choices
 Call Gambling Help
 1800 858 858
www.gamblinghelp.nsw.gov.au
- (3) Subclause (2) does not prevent a notice under this clause from containing other information.
- (4) The matter contained in the notice must be in letters and figures of not less than 0.2 centimetres in height.
- (5) The notice may consist of a permanently visible light emitting display that forms part of the machine or facility.

Division 2 Totalizator advertising and inducements

11 Definitions

In this Division, *publish* and *totalizator advertising* have the same meanings as they have in section 80 of the Act.

12 Prohibitions on totalizator advertising

- (1) The requirements of subclauses (2), (3) and (4) are prescribed as requirements for the purposes of section 80 (1) of the Act.
Note. Section 80 (1) of the Act makes it an offence for a licensee or other person to publish, or cause to be published, any totalizator advertising that is in contravention of a requirement of the regulations or the rules. The maximum penalty for the offence is 50 penalty units.
- (2) A licensee, or an employee or agent of a licensee, must not publish, or cause to be published, any totalizator advertising that:
- (a) encourages a breach of the law, or
 - (b) depicts children gambling, or
 - (c) is false, misleading or deceptive, or

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Part 3 Responsible gambling practices

- (d) suggests that winning will be a definite outcome of participating in gambling activities, or
 - (e) suggests that participation in gambling activities is likely to improve a person's financial prospects, or
 - (f) promotes the consumption of alcohol while engaging in gambling activities, or
 - (g) is not published in accordance with decency, dignity and good taste and, if the totalizator advertising takes the form of a television advertisement, in accordance with the 2010 Commercial Television Industry Code of Practice registered by the Australian Communications and Media Authority, or
 - (h) offers any credit, voucher or reward as an incentive:
 - (i) to participate in gambling activities, or
 - (ii) to create an account for the purposes of gambling activities.
- (3) A licensee, or an employee or agent of a licensee, must not publish, or cause to be published, any totalizator advertising in writing in a newspaper, magazine, poster or other printed form that does not contain the following:
- Think! About your choices
Call Gambling Help
1800 858 858
www.gamblinghelp.nsw.gov.au
- (4) A person other than a licensee, or an employee or agent of a licensee, must not publish any totalizator advertising that does any of the things referred to in subclause (2) (a)–(h).
- (5) Subclause (4) does not apply if the licensee conducting the totalizator to which the advertising relates, or an employee or agent of the licensee, approved in writing of the publication of the advertising.
- (6) A licensee, or an employee or agent of a licensee, must not enter into or extend the duration of any contract or arrangement for the publication of totalizator advertising that does not comply with this clause.
Maximum penalty (subclause (6)): 50 penalty units.

13 Gambling inducements

A licensee, or an employee or agent of a licensee, must not offer or supply any free or discounted liquor as an inducement to participate, or to participate frequently, in any totalizator betting.

Maximum penalty: 50 penalty units.

Part 4 Miscellaneous

14 Key employees

For the purposes of the definition of *key employee* in section 5 (1) of the Act, the following persons are prescribed:

- (a) any person (whether or not appointed under a contract of service) who is:
 - (i) employed in a managerial or supervisory capacity in relation to the conduct of a totalizator by or on behalf of a licensee, or
 - (ii) authorised to make decisions, involving the exercise of his or her discretion, that regulate the operations of a licensee in relation to a totalizator conducted by or on behalf of the licensee,
- (b) any person (whether or not appointed under a contract of service) whose duties in relation to the conduct of a totalizator by or on behalf of a licensee include any of the following:
 - (i) the taking of bets on the totalizator,
 - (ii) the calculation, determination or declaring of any dividends in the totalizator,
 - (iii) involvement in the financial or accounting aspects of the conduct of the totalizator (including any dealing with money invested on the totalizator),
 - (iv) the design, construction, creation, operation, repair or maintenance of any device, equipment or computer software that is used in connection with the conduct of the totalizator or that otherwise affects the conduct of the totalizator,
 - (v) involvement in the security requirements in respect of the totalizator,

except such persons as are employed or engaged in positions identified by the Minister from time to time, by notice in writing served on the licensee, as being outside the scope of this definition.

15 Remedial orders

The following offences are prescribed for the purposes of section 103A of the Act:

- (a) offences against section 80 (1), 81 (1), 82 (1) and 84 (3) of the Act,
- (b) offences against clauses 6, 7, 9, 12 and 13 of this Regulation.

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Part 4 Miscellaneous

16 Savings provision

Any act, matter or thing that, immediately before the repeal of the *Totalizator Regulation 2005*, had effect under that Regulation continues to have effect under this Regulation.