



New South Wales

Wagering Legislation Amendment Act 2010 No 132

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New South Wales

Wagering Legislation Amendment Act 2010 No 132

Act No 132, 2010

An Act to amend the *Racing Administration Act 1998* to make further provision for betting by bookmakers; to amend the *Unlawful Gambling Act 1998* to prohibit remote access betting facilities; to amend the *Betting Tax Act 2001* to provide for refunds in respect of certain betting tax paid by totalizator licensees; and for other purposes. [Assented to 7 December 2010]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Wagering Legislation Amendment Act 2010*.

2 Commencement

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

Schedule 1 Amendment of Racing Administration Act 1998 No 114

[1] Section 4 Definitions

Omit the definitions of *authorised sports betting bookmaker*, *Committee*, *sports betting authority* and *sports betting event* from section 4 (1).

Insert in alphabetical order:

authorised betting event bookmaker means a licensed bookmaker who is authorised to take bets under section 19.

betting authority means an authority under section 19.

declared betting event means an event or class of event declared by the Minister to be a declared betting event or class of declared betting events under section 18.

[2] Sections 4 (1) (definition of “betting auditorium”), 8 (1) (a), 19 (1), 20 (1) (b) and (2) (a) and 26GC (2) (a)

Omit “sports betting events” wherever occurring.

Insert instead “declared betting events”.

[3] Section 16 Authority to conduct telephone or electronic betting

Omit “at a time when it is lawful for betting to take place at the racecourse” from section 16 (1).

Insert instead “or on premises approved under section 16A as premises at which the bookmaker may conduct telephone or electronic betting”.

[4] Sections 16 (8) and 22 (2)

Omit “, on the recommendation of the Committee,” wherever occurring.

[5] Section 16 (9)

Omit the subsection. Insert instead:

- (9) A bet made or accepted by a bookmaker by telephone or electronically is taken to have been made or accepted at the place where the bookmaker is located when the bet is made or accepted.

[6] Section 16A

Insert after section 16:

16A Approved premises for conduct of telephone or electronic betting

- (1) The controlling body that authorises a licensed bookmaker to carry on bookmaking may approve premises in New South Wales that are not on a licensed racecourse as premises at which the bookmaker may conduct telephone or electronic betting pursuant to an authority under section 16.
- (2) An approval under this section is to be in writing and may be given subject to conditions. An approval may be revoked by notice in writing to the bookmaker.
- (3) In addition to any other conditions to which an approval under this section is subject, it is a condition of an approval that the approved premises must not be open to, or available for use by, the public or a section of the public.
- (4) A condition of an approval under this section operates as a condition to which the relevant authority under section 16 is subject.

[7] Part 3, Division 2, heading

Omit the heading to the Division. Insert instead:

Division 2 Authorised betting event

[8] Section 18

Omit the section. Insert instead:

18 Declared betting events

- (1) The Minister may, by order published in the Gazette, declare any sporting event (other than horse racing, harness racing or greyhound racing) or other event, or class of sporting or other events, whether held in New South Wales or elsewhere, to be declared betting events.
- (2) In this section, *event* includes contingency.

[9] Sections 19 (2), 20 (1), 21 (1) and 22 (1) and (2)

Omit “sports betting authority” wherever occurring.

Insert instead “betting authority”.

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- [10] Sections 19A, 20 (1) (c), 21 (1) and 22 (2) (a)**
Omit “sports betting bookmaker” wherever occurring.
Insert instead “betting event bookmaker”.
- [11] Section 20 Conditions of authorisation**
Omit “sports betting bookmakers” from section 20 (2) (e) and (f) wherever occurring.
Insert instead “betting event bookmakers”.
- [12] Sections 21 (1) (a), 27 (definition of “betting information”) and 30 (1) (a) (iii) and (c)**
Omit “sports betting event” wherever occurring.
Insert instead “declared betting event”.
- [13] Sections 22 (2) (c) and 23 (1)**
Omit “sports betting” wherever occurring.
Insert instead “declared betting event”.
- [14] Sections 26A–26F**
Omit the sections.
- [15] Section 26I Inspection of records**
Insert “or premises approved under section 16A” after “racecourse” in section 26I (4).
- [16] Section 26I (6) and (7)**
Omit the subsections. Insert instead:
- (6) A function conferred on an inspector may not be exercised unless the inspector proposing to exercise the power is in possession of and, if required to do so by the occupier of the premises, produces:
 - (a) in the case of an inspector authorised by the Minister—an identification card issued by the Minister, or
 - (b) in the case of an inspector authorised by a controlling body—an identification card issued by the controlling body.

(7) In this section:

inspector means:

- (a) a person authorised in writing by the Minister either generally or in a particular case to be an inspector under this section, or
- (b) a person designated by a controlling body to exercise the functions of an inspector under this section, but only in relation to the exercise of those functions with respect to bookmakers authorised by the relevant controlling body to carry on bookmaking.

[17] Schedule 1 Savings and transitional provisions

Insert at the end of clause 1 (1):

the Wagering Legislation Amendment Act 2010

[18] Schedule 1, Part 8

Insert after clause 13:

**Part 8 Provisions consequent on enactment of
Wagering Legislation Amendment
Act 2010**

14 Definition

In this Part:

2010 amending Act means the *Wagering Legislation Amendment Act 2010*.

15 Existing sports betting events

A declaration of an event as a sports betting event that is in force under section 18 immediately before the replacement of that section by the 2010 amending Act is taken, after the replacement of that section, to be a declaration of the event as a declared betting event.

16 Existing sports betting authorities

- (1) A sports betting authority in force under section 19 immediately before the amendment of that section by the 2010 amending Act is taken, after the amendment of that section, to have been issued as a betting authority.

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- (2) The authorisation of a licensed bookmaker to take bets on sports betting events is taken, after that amendment, to be an authorisation to take bets on declared betting events.

17 Dissolution of the Bookmakers Revision Committee

The Bookmakers Revision Committee is dissolved.

Schedule 2 Amendment of Unlawful Gambling Act 1998 No 113

[1] Section 8 Offences relating to unlawful betting

Omit “sports betting event” from section 8 (1) (b) and (6) (b), (c), (e) and (f) wherever occurring.

Insert instead “declared betting event”.

[2] Section 8 (6) (c)

Omit “sports betting bookmaker”. Insert instead “betting event bookmaker”.

[3] Section 8 (6) (c)

Omit “sports betting authority”. Insert instead “betting authority”.

[4] Section 8 (6) (d)

Omit “carried on by”. Insert instead “made with or accepted by”.

[5] Section 8 (6) (d1)

Insert after section 8 (6) (d):

- (d1) betting on any event or contingency if the betting is made by telephone or electronically with a person who is authorised under the law of any other State or Territory, or any other jurisdiction, to carry on bookmaking activities,

[6] Section 8 (7)

Omit the subsection. Insert instead:

- (7) In this section, *authorised betting auditorium*, *authorised betting event bookmaker*, *betting authority*, *controlling body* and *declared betting event* have the same meanings as in the *Racing Administration Act 1998*.

[7] Section 9 Offence of unlawful bookmaking

Omit section 9 (2). Insert instead:

- (2) A person who is a licensed bookmaker must not carry on bookmaking except:
 - (a) at a licensed racecourse when it is lawful for betting to take place at the racecourse, or

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- (b) as permitted under section 16 (Authority to conduct telephone or electronic betting) of the *Racing Administration Act 1998*.

Maximum penalty:

- (a) for a first offence, 200 penalty units (in the case of an offence committed by a corporation) or 100 penalty units or imprisonment for 2 years or both (in the case of an offence committed by an individual), or
- (b) for a second or subsequent offence, 1,000 penalty units (in the case of an offence committed by a corporation) or 500 penalty units or imprisonment for 2 years or both (in the case of an offence committed by an individual).

[8] Section 11A

Insert after section 11:

11A Offence of providing remote access betting facilities

- (1) A person must not make a remote access betting facility available in a public place for use by persons frequenting that place.

Maximum penalty:

- (a) for a first offence, 200 penalty units (in the case of an offence committed by a corporation) or 100 penalty units or imprisonment for 2 years or both (in the case of an offence committed by an individual), or
- (b) for a second or subsequent offence, 1,000 penalty units (in the case of an offence committed by a corporation) or 500 penalty units or imprisonment for 2 years or both (in the case of an offence committed by an individual).
- (2) This section does not apply to a remote access betting facility used for betting or facilitating betting on a totalizator or betting activity conducted under the authority of a licence or approval under the *Totalizator Act 1997*.

- (3) In this section:

public place means a place that the public, or a section of the public, is entitled to use or that is open to, or is being used by, the public or a section of the public (whether on payment of money, by virtue of membership of a club or other body, or otherwise) and, without limitation, includes the premises of a registered club under the *Registered Clubs Act 1976* and licensed premises under the *Liquor Act 2007*.

remote access betting facility means any device (such as a computer terminal or telephone) that is for use primarily or

exclusively for betting on any event or contingency or for facilitating betting on any event or contingency.

[9] Section 49

Omit the section. Insert instead:

49 Evidentiary provisions relating to betting

In any proceedings for an offence under this Act, any allegation in the information in respect of the offence that a bookmaker accepted bets on an event on a date specified in the information and that the event was not an event declared by the Minister to be a declared betting event under section 18 of the *Racing Administration Act 1998* is evidence of the truth of the allegation concerned unless the contrary is proved.

[10] Schedule 1 Savings and transitional provisions

Insert at the end of clause 1 (1):

Wagering Legislation Amendment Act 2010

[11] Schedule 1, Part 3

Insert after clause 2:

**Part 3 Provision consequent on enactment of
Wagering Legislation Amendment
Act 2010**

3 Evidentiary provisions relating to declared betting events

In relation to proceedings for an offence that is alleged to have been committed before the substitution of section 49 by the *Wagering Legislation Amendment Act 2010*, that section continues to apply as if it had not been substituted.

Schedule 3 Amendment of Betting Tax Act 2001 No 43

[1] Section 11

Insert before section 12:

11 Refund of tax to totalizator licensee

- (1) A totalizator licensee is entitled to a refund of the betting tax paid by the licensee in an amount equal to 9.11% of the commission deducted (under section 69 of the *Totalizator Act 1997*) from the total amount invested by eligible investors in totalizators conducted by the licensee during a financial year.
- (2) The Minister may reduce any refund (the *full refund*) that a licensee is entitled to under this section by:
 - (a) any amount determined by the Minister to be the shortfall in rebates paid to eligible investors, being the amount by which the total of the benefits and rebates (other than dividends) paid by the licensee to eligible investors during the financial year concerned is less than the amount of the full refund, and
 - (b) any amount determined by the Minister to be the shortfall in minimum betting tax receipts from the licensee, being the amount by which the total betting tax paid by the licensee on commissions deducted from the total amount invested by eligible investors in totalizators conducted by the licensee during the financial year concerned would be less than \$11 million if the full refund were to be paid to the licensee.
- (3) A totalizator licensee is not entitled to a refund under this section unless, after the end of a financial year, the licensee:
 - (a) makes an application in the form approved by the Minister, and
 - (b) provides the Minister with such information as the Minister may request as to the benefits or rebates (not including dividends) paid by the licensee to eligible investors (if any).
- (4) A refund to which a totalizator licensee is entitled under this section is to be paid at such time after the end of the financial year as the Minister considers appropriate.

- (5) For the purposes of this section, an investor is an *eligible investor* in respect of a financial year if the investor had a betting account with the licensee during the financial year, and:
- (a) was resident outside Australia for not less than 11 months of the financial year, or
 - (b) invested, from that account, a total of not less than \$3 million in totalizators conducted by the licensee during the financial year.
- (6) This section applies only in respect of the financial years ending on 30 June 2011 and 30 June 2012 and any later financial year prescribed by the regulations.

[2] Schedule 4 Savings and transitional provisions

Insert at the end of clause 1 (1):

Wagering Legislation Amendment Act 2010

[3] Schedule 4, Division 4

Insert after clause 7:

**Division 4 Provisions consequent on enactment of
Wagering Legislation Amendment Act 2010**

8 Transitional arrangement for betting tax refunds

The following provisions apply to the calculation of a refund of betting tax under section 11 in relation to the financial year ending 30 June 2011:

- (a) the refund applies only to tax paid in respect of a totalizator conducted on or after the commencement of section 11,
- (b) the total of the benefits and rebates paid by the licensee does not include benefits and rebates paid before the commencement of section 11,
- (c) the amount of \$11 million used in the calculation of the shortfall in minimum betting tax receipts (referred to in section 11 (2)) is to be reduced in proportion to the reduced number of days remaining in the financial year after the commencement of section 11,
- (d) the total investments of an eligible investor during the financial year include investments made before the commencement of section 11.

Schedule 4 Amendment of other Acts

4.1 Greyhound Racing Act 2009 No 19

[1] Section 19 Registration of bookmakers

Omit “authorised sports betting bookmaker” from section 19 (5) (b).

Insert instead “authorised betting event bookmaker”.

[2] Section 19 (9), definition of “authorised sports betting bookmaker”

Omit the definition. Insert instead:

authorised betting event bookmaker has the same meaning as in section 4 of the *Racing Administration Act 1998*.

4.2 Harness Racing Act 2009 No 20

[1] Section 19 Registration of bookmakers

Omit “authorised sports betting bookmaker” from section 19 (5) (b).

Insert instead “authorised betting event bookmaker”.

[2] Section 19 (9), definition of “authorised sports betting bookmaker”

Omit the definition. Insert instead:

authorised betting event bookmaker has the same meaning as in section 4 of the *Racing Administration Act 1998*.

4.3 Thoroughbred Racing Act 1996 No 37

[1] Section 14A Licensing of bookmakers

Omit “authorised sports betting bookmaker” from section 14A (4) (c) (ii).

Insert instead “authorised betting event bookmaker”.

[2] Section 14A (9), definition of “authorised sports betting bookmaker”

Omit the definition. Insert instead:

authorised betting event bookmaker has the same meaning as in section 4 of the *Racing Administration Act 1998*.

4.4 Totalizator Act 1997 No 45

[1] Section 6 Meaning of “totalizator”

Omit “sporting” from the note to the section.

[2] Section 12 Licences may be granted to conduct totalizators of various kinds

Omit section 12 (1) (b). Insert instead:

- (b) any declared betting event (within the meaning of the *Racing Administration Act 1998*).

[3] Section 13 Licensee can be approved to conduct other betting activities

Omit section 13 (2) (b). Insert instead:

- (b) any declared betting event (within the meaning of the *Racing Administration Act 1998*).

[4] Section 14 TAB entitled to exclusive off-course totalizator licence

Omit section 14 (1) (b). Insert instead:

- (b) any declared betting event (within the meaning of the *Racing Administration Act 1998*).

[5] Section 15 TAB and racing clubs entitled to exclusive on-course totalizator licences

Omit section 15 (1) (b). Insert instead:

- (b) any declared betting event (within the meaning of the *Racing Administration Act 1998*).

[6] Schedule 2 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

Wagering Legislation Amendment Act 2010

[7] Schedule 2, Part 6

Insert after clause 20:

**Part 6 Provision consequent on enactment of
Wagering Legislation Amendment
Act 2010**

21 Existing licences to apply to declared betting events

A licence granted under this Act that authorises a licensee to conduct a totalizator or a betting activity (otherwise than by means of a totalizator) in respect of sports betting events under the *Racing Administration Act 1998* is taken to authorise the licensee to conduct a totalizator or other betting activity in respect of declared betting events under that Act.

[Agreement in principle speech made in Legislative Assembly on 24 November 2010
Second reading speech made in Legislative Council on 30 November 2010]

BY AUTHORITY