



New South Wales

Totalizator Regulation 2022

under the

Totalizator Act 1997

His Honour the Administrator, with the advice of the Executive Council, has made the following Regulation under the *Totalizator Act 1997*.

KEVIN ANDERSON, MP
Minister for Hospitality and Racing

Explanatory note

The object of this Regulation is to remake, with changes, the *Totalizator Regulation 2012*, which is repealed on 1 September 2022 by the *Subordinate Legislation Act 1989*, section 10(2).

This Regulation provides for the following—

- (a) the regulation of responsible gambling practices,
- (b) the prescription of persons as key employees in relation to the conduct of a totalizator,
- (c) the identification of persons who are not key employees in relation to the conduct of a totalizator,
- (d) the circumstances in which a body's relevant interests in shares are to be disregarded for the purposes of deciding if the body has a prohibited shareholding interest in a licensee,
- (e) the changes a licensee or a contractor of the licensee must notify the Minister of and the particulars of the changes that must be notified,
- (f) the percentage of the tax reduction amount that must be paid by TAB Limited in relation to Racing New South Wales, Harness Racing New South Wales and Greyhound Racing New South Wales,
- (g) the offences under the *Totalizator Act 1997* and this Regulation for which a court may impose certain orders in addition to, or as an alternative to, another penalty if the court finds a person guilty of the offence,
- (h) the offences under the *Totalizator Act 1997* and this Regulation for which penalty notices may be issued, including the amounts payable.

The provisions of this Regulation that relate to the matters specified at paragraphs (c) and (d) are arguably made under Henry VIII provisions because the provisions impliedly amend the *Totalizator Act 1997* by affecting the application of the Act.

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Totalizator Regulation 2022

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Totalizator Act 1997

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Totalizator Regulation 2022*.

2 Commencement

This Regulation commences on 1 September 2022.

Note— This Regulation replaces the *Totalizator Regulation 2012*, which is repealed on 1 September 2022 by the *Subordinate Legislation Act 1989*, section 10(2).

3 Definitions

In this Regulation—

Liquor & Gaming NSW means the part of the Department of Enterprise, Investment and Trade comprising the group of staff who are principally involved in administering the Act.

Secretary means the Secretary of the Department of Enterprise, Investment and Trade.

the Act means the *Totalizator Act 1997*.

Note— The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

Part 2 Responsible gambling practices

4 Advisory statement—the Act, s 80

For the Act, section 80(4), the prescribed advisory statement is—
Help is close at hand
www.gambleaware.nsw.gov.au
1800 858 858

5 Problem gambling information brochures—the Act, ss 117 and 117A

- (1) For the Act, sections 117(4) and 117A(1) and (2)(c), a licensee must—
- ensure copies of a problem gambling information brochure are available in each part of the premises in which the licensee conducts totalizator betting, and
 - position the copies in a way that it is reasonable to expect a person in that part of the premises would be alerted to the copies, and
 - in response to a request for a copy of a foreign language problem gambling information brochure—give a copy of the brochure to the person, in the language requested, as soon as possible after receiving the request.

Maximum penalty—50 penalty units.

- (2) In this section—

foreign language problem gambling information brochure means a brochure in a language other than English containing the telephone number for GambleAware—

- approved by the Secretary, and
- published on the Liquor & Gaming NSW website.

GambleAware means the counselling and support service funded by the Responsible Gambling Fund.

problem gambling information brochure means a brochure containing the telephone number for GambleAware—

- approved by the Secretary, and
- published on the Liquor & Gaming NSW website.

Responsible Gambling Fund means the Fund established under the *Casino Control Act 1992*, section 115.

6 Counselling and gambling help notices to be displayed—the Act, ss 117 and 117A

- (1) For the Act, sections 117(4) and 117A(1) and (2)(c), a licensee must—
- display a copy of the counselling notice in each part of the premises in which the licensee conducts totalizator betting, and
 - position a copy of the counselling notice in a way that it is reasonable to expect a person in that part of the premises would be alerted to the contents of the notice, and
 - display a copy of the gambling help notice on each automatic teller machine (**ATM**) and electronic funds transfer (**EFT**) facility in the premises in which the licensee conducts totalizator betting.

Maximum penalty—50 penalty units.

- (2) A gambling help notice displayed on an ATM or EFT facility may consist of a permanently visible light emitting display.
- (3) In this section—

counselling notice means a notice approved by the Secretary—

- (a) containing a statement about problem gambling help options, and
- (b) published on the Liquor & Gaming NSW website.

gambling help notice means a notice approved by the Secretary—

- (a) containing a statement about problem gambling help options for the purposes of ATMs and EFT facilities, and
- (b) published on the Liquor & Gaming NSW website.

7 Gambling information and warnings—the Act, s 117A

For the Act, section 117A(1) and (2)(d), a licensee must ensure that each entry form, however described, and betting ticket issued by or on behalf of the licensee in a totalizator includes the following information—

Help is close at hand

www.gambleaware.nsw.gov.au

1800 858 858

Maximum penalty—50 penalty units.

Part 3 Miscellaneous

8 Key employees—the Act, s 5

- (1) For the Act, section 5(1), definition of *key employee*, the following persons are prescribed—
 - (a) a person, whether or not appointed under a contract of service, who—
 - (i) manages or supervises the conduct of a totalizator by or on behalf of a licensee, or
 - (ii) is authorised to make decisions about the licensee’s operations in relation to the totalizator conducted by or on behalf of the licensee,
 - (b) a 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—
 - (i) taking bets, or
 - (ii) calculating, determining or declaring dividends, or
 - (iii) undertaking financial or accounting tasks, including dealing with money invested on the totalizator, or
 - (iv) designing, constructing, creating, operating, repairing or maintaining a device, equipment or software used in, or that otherwise affects, the conduct of the totalizator, or
 - (v) providing security.
- (2) The Minister may, by written notice given to a licensee, identify a person, or a person belonging to a class of persons, as a person who is not a key employee.

9 Disregarding relevant interests in shares—the Act, s 31

- (1) For the Act, section 31(7), a relevant body’s relevant interest in shares of a licensee must be disregarded for the purpose of deciding whether the body has a prohibited shareholding interest in the licensee if—
 - (a) for an authorised trustee corporation—
 - (i) the shares are held by—
 - (A) the corporation in the corporation’s capacity as trustee of a trust, undertaking or scheme, or
 - (B) a custodian on behalf of the corporation in the corporation’s capacity as trustee of a trust, undertaking or scheme, and
 - (ii) the trust, undertaking or scheme is governed by an approved deed, and
 - (iii) the authorised trustee corporation or custodian, if any, or a related body corporate of the corporation or custodian, does not decide the way in which voting rights attached to the shares are exercised, or
 - (b) for a registered scheme—
 - (i) the shares are held on trust by the responsible entity for the scheme, and
 - (ii) the responsible entity or related body corporate of the scheme does not decide the way in which voting rights attached to the shares are exercised.
- (2) In this section—

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

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.

Corporations Act means the *Corporations Act 2001* of the Commonwealth.

registered scheme has the same meaning as in the Corporations Act.

related body corporate has the same meaning as in the Corporations Act.

relevant body means—

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

responsible entity, of a registered scheme, has the same meaning as in the Corporations Act.

10 Notification of changed circumstances—the Act, s 59

For the Act, section 59, the following are prescribed—

- (a) a change specified in Schedule 1,
- (b) particulars in relation to the change specified in the corresponding entry in Schedule 1.

11 Apportionment of tax reduction amount—the Act, s 70

For the Act, section 70(1), the following percentages are prescribed—

- (a) for Racing New South Wales—77.3%,
- (b) for Harness Racing New South Wales—12.7%,
- (c) for Greyhound Racing New South Wales—10%.

12 Remedial orders—the Act, s 103A

For the Act, section 103A(1), the following offences are prescribed—

- (a) offences under the Act, sections 80(1), (4) and (5), 80B, 81(1), 82(1) and 84(3),
- (b) offences under this Regulation, sections 5(1) and 6(1)(a) and (b).

13 Savings

An act, matter or thing that, immediately before the repeal of the *Totalizator Regulation 2012*, had effect under that Regulation continues to have effect under this Regulation.

Schedule 1 Notification of change of circumstances

section 10

Change	Particulars to be notified
A change to the licensee's or contractor's name, principal place of business, postal address, email address, website address or telephone number	The changed name, principal place of business, postal address, email address, website address or telephone number
A change in the membership of the licensee's or contractor's board of directors	The name, address and date of birth of a new director
A change in the name or address of a member of the licensee's or contractor's board of directors	The changed name or address
A change in information entered in the licensee's or contractor's register of members	The changed information, including information added to or deleted from the register
The commencement, settlement, discontinuance or finalisation of civil or criminal proceedings to which the licensee or contractor is a party	Information about the nature of the proceedings, the date proceedings were commenced, settled, discontinued or finalised and the outcome of the proceedings, unless disclosure of the outcome is prohibited
The obtaining of a judgment against the licensee or contractor, the creation of a charge over the licensee's property or repossession of the licensee's or contractor's property	Information about the affected property and the terms of the judgment or charge, or the reasons for and circumstances of the repossession
An amendment of the licensee's or contractor's assessment under taxation legislation of the Commonwealth	Information about the amendment
A change in the key employees employed by or on behalf of the licensee or contractor	The name and address of a person who becomes or ceases to be a key employee and the date that occurs
The commencement, settlement, discontinuance or finalisation of civil or criminal proceedings to which a key employee of the licensee or contractor is a party and of which the licensee or contractor is aware	Information about the nature of the proceedings, the names and addresses of the other parties to the proceedings, the date proceedings were commenced, settled, discontinued or finalised and the outcome of the proceedings, unless disclosure of the outcome is prohibited
The commencement of the winding up of the licensee or contractor or the placement of the licensee or contractor under voluntary administration	The date on which the winding up or voluntary administration commenced
The licensee or contractor entering into a compromise or arrangement with the licensee's or contractor's creditors	The date on which the compromise or arrangement was entered into and the terms of the compromise or arrangement
The appointment of a receiver or manager, by the Supreme Court or otherwise, in relation to the licensee's or contractor's property	The date and terms of the appointment

Schedule 2 Penalty notice offences

1 Application of Schedule

- (1) For the Act, section 100A—
 - (a) each offence created by a provision specified in this Schedule is an offence for which a penalty notice may be issued, and
 - (b) the amount payable for the penalty notice is the amount specified opposite the provision.
- (2) If the provision is qualified by words that restrict its operation to limited kinds of offences or to offences committed in limited circumstances, the penalty notice may be issued only for—
 - (a) that limited kind of offence, or
 - (b) an offence committed in those limited circumstances.

Provision	Penalty—individuals	Penalty—corporations
Offences under the Gaming and Liquor Administration Act 2007 as applied by the Act, section 91E		
Section 34(4)	\$1,100	\$1,100
Offences under the Act		
Section 35(1) and (2)	\$1,100	\$1,100
Section 59	\$550	\$550
Section 80(1), (4) and (5)	\$2,750	\$13,750
Section 80A(2)	\$2,750	\$13,750
Section 80AA(1) and (2)	\$2,750	\$13,750
Section 80B	\$2,750	\$13,750
Section 81	\$220	\$220
Section 82(1)	\$550	\$550
Section 83(1)	\$550	\$550
Section 84(1)	\$220	—
Section 84(3)	\$550	\$550
Section 86	\$550	\$550
Section 87	\$550	\$550
Section 88(1)	\$550	\$550
Section 89(1)	\$550	\$550
Offences under this Regulation		
Section 5(1)	\$550	\$550
Section 6(1)	\$550	\$550
Section 7	\$550	\$550