



New South Wales

# Wagering Legislation Amendment Bill 2010

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The objects of this Bill are:

- (a) to extend the scheme under which bookmakers are authorised to take bets on sporting events to permit authorised bookmakers to take bets on any event or contingency declared by the Minister, and
- (b) to allow an authorised bookmaker to take telephone and electronic bets at premises, other than a licensed racecourse, that are approved for that purpose by the controlling body that authorised the bookmaker concerned, and
- (c) to allow authorised bookmakers to take telephone and electronic bets at any time, and
- (d) to prohibit persons from making remote access betting facilities available in a public place for use by the public, and
- (e) to dissolve the Bookmakers Revision Committee, and
- (f) to provide for the refund of part of the betting tax paid by a totalizator licensee on commissions taken by the licensee from investments made by certain investors in totalizators conducted by the licensee.

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

### **Schedule 1      Amendment of Racing Administration Act 1998 No 114**

**Schedule 1 [8]** extends the scheme under which bookmakers are authorised to take bets on sporting events to permit authorised bookmakers to take bets on any event or contingency declared by the Minister.

**Schedule 1 [1], [2], [7], [9]–[13] and [15]** make consequential amendments.

**Schedule 1 [6]** allows an authorised bookmaker to take telephone and electronic bets at premises (other than a licensed racecourse) that are approved for that purpose by the controlling body that authorised the bookmaker concerned. **Schedule 1 [5]** makes a consequential amendment.

**Schedule 1 [3]** provides that a bookmaker can be authorised to take telephone or electronic bets at approved premises (as well as on a licensed racecourse as at present).

**Schedule 1 [14]** repeals provisions relating to the Bookmakers Revision Committee and State bookmakers authorities granted by that Committee as a consequence of the dissolution of that Committee by the proposed Act. **Schedule 1 [4]** makes a consequential amendment.

**Schedule 1 [16]** grants persons designated by a controlling body certain powers with respect to the inspection of documents and records relating to bets made with or by bookmakers authorised by that controlling body to carry on bookmaking.

**Schedule 1 [17]** provides for the making of regulations containing provisions of a savings and transitional nature consequent on the enactment of the proposed Act.

**Schedule 1 [18]** inserts provisions of a savings and transitional nature consequent on the enactment of the proposed Act and dissolves the Bookmakers Revision Committee.

### **Schedule 2      Amendment of Unlawful Gambling Act 1998 No 113**

**Schedule 2 [8]** provides that it is an offence for a person to make a remote access betting facility available in a public place for use by persons frequenting that place. A *remote access betting facility* is a device (such as 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.

The amendment does not prevent a person making a remote access betting facility available in a public place if that facility is used for betting or facilitating betting on a totalizator or betting activity conducted under the authority of a licence issued under the *Totalizator Act 1997*.

**Schedule 2 [4] and [5]** make it clear that betting by telephone or electronically with a licensed bookmaker or a bookmaker authorised in another jurisdiction are not prohibited forms of betting.

**Schedule 2 [7]** amends section 9 of the *Unlawful Gambling Act 1998* consequent on the amendment made by **Schedule 1 [3]**.

**Schedule 2 [1]–[3], [6] and [9]** make amendments to the *Unlawful Gambling Act 1998* consequential on to the amendment made by **Schedule 1 [1]**.

**Schedule 2 [10]** provides for the making of regulations containing provisions of a savings and transitional nature consequent on the enactment of the proposed Act.

**Schedule 2 [11]** inserts a provision of a transitional nature consequent on the enactment of the proposed Act.

### **Schedule 3      Amendment of Betting Tax Act 2001 No 43**

**Schedule 3 [1]** provides for a refund of a portion of the betting tax paid by a totalizator licensee on commissions taken by the licensee from investments made by eligible investors in totalizators conducted by the licensee. The *eligible investors* are investors who hold an account with the licensee and who are resident outside Australia for not less than 11 months of the year or who each invest not less than \$3 million in the year to which the refund relates.

**Schedule 3 [2]** provides for the making of regulations containing provisions of a savings and transitional nature consequent on the enactment of the proposed Act.

**Schedule 3 [3]** inserts a provision of a transitional nature consequent on the enactment of the proposed Act.

### **Schedule 4      Amendment of other Acts**

**Schedule 4** makes amendments to the *Greyhound Racing Act 2009*, *Harness Racing Act 2009*, *Thoroughbred Racing Act 1996* and *Totalizator Act 1997* consequent on the expansion of the events in respect of which bookmakers may take bets under the *Racing Administration Act 1998*.



First print



New South Wales

# Wagering Legislation Amendment Bill 2010

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New South Wales

# Wagering Legislation Amendment Bill 2010

No. , 2010

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## A Bill for

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.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Wagering Legislation Amendment Act 2010</i> .	3
<b>2 Commencement</b>	4
This Act commences on a day or days to be appointed by proclamation.	5

<b>Schedule 1</b>	<b>Amendment of Racing Administration Act 1998 No 114</b>	1
		2
<b>[1]</b>	<b>Section 4 Definitions</b>	3
	Omit the definitions of <i>authorised sports betting bookmaker</i> , <i>Committee</i> , <i>sports betting authority</i> and <i>sports betting event</i> from section 4 (1).	4
		5
	Insert in alphabetical order:	6
	<i>authorised betting event bookmaker</i> means a licensed bookmaker who is authorised to take bets under section 19.	7
		8
	<i>betting authority</i> means an authority under section 19.	9
	<i>declared betting event</i> 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.	10
		11
		12
<b>[2]</b>	<b>Sections 4 (1) (definition of “betting auditorium”), 8 (1) (a), 19 (1), 20 (1) (b) and (2) (a) and 26GC (2) (a)</b>	13
		14
	Omit “sports betting events” wherever occurring.	15
	Insert instead “declared betting events”.	16
<b>[3]</b>	<b>Section 16 Authority to conduct telephone or electronic betting</b>	17
	Omit “at a time when it is lawful for betting to take place at the racecourse” from section 16 (1).	18
		19
	Insert instead “or on premises approved under section 16A as premises at which the bookmaker may conduct telephone or electronic betting”.	20
		21
<b>[4]</b>	<b>Sections 16 (8) and 22 (2)</b>	22
	Omit “, on the recommendation of the Committee,” wherever occurring.	23
<b>[5]</b>	<b>Section 16 (9)</b>	24
	Omit the subsection. Insert instead:	25
	(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.	26
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<b>[6] Section 16A</b>	1
Insert after section 16:	2
<b>16A Approved premises for conduct of telephone or electronic betting</b>	3
(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.	4 5 6 7 8
(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.	9 10 11
(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.	12 13 14 15
(4) A condition of an approval under this section operates as a condition to which the relevant authority under section 16 is subject.	16 17 18
<b>[7] Part 3, Division 2, heading</b>	19
Omit the heading to the Division. Insert instead:	20
<b>Division 2 Authorised betting event</b>	21
<b>[8] Section 18</b>	22
Omit the section. Insert instead:	23
<b>18 Declared betting events</b>	24
(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.	25 26 27 28 29
(2) In this section, <i>event</i> includes contingency.	30
<b>[9] Sections 19 (2), 20 (1), 21 (1) and 22 (1) and (2)</b>	31
Omit “sports betting authority” wherever occurring.	32
Insert instead “betting authority”.	33

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<b>[10]</b>	<b>Sections 19A, 20 (1) (c), 21 (1) and 22 (2) (a)</b>	1
	Omit “sports betting bookmaker” wherever occurring.	2
	Insert instead “betting event bookmaker”.	3
<b>[11]</b>	<b>Section 20 Conditions of authorisation</b>	4
	Omit “sports betting bookmakers” from section 20 (2) (e) and (f) wherever occurring.	5 6
	Insert instead “betting event bookmakers”.	7
<b>[12]</b>	<b>Sections 21 (1) (a), 27 (definition of “betting information”) and 30 (1) (a) (iii) and (c)</b>	8 9
	Omit “sports betting event” wherever occurring.	10
	Insert instead “declared betting event”.	11
<b>[13]</b>	<b>Sections 22 (2) (c) and 23 (1)</b>	12
	Omit “sports betting” wherever occurring.	13
	Insert instead “declared betting event”.	14
<b>[14]</b>	<b>Sections 26A–26F</b>	15
	Omit the sections.	16
<b>[15]</b>	<b>Section 26I Inspection of records</b>	17
	Insert “or premises approved under section 16A” after “racecourse” in section 26I (4).	18 19
<b>[16]</b>	<b>Section 26I (6) and (7)</b>	20
	Omit the subsections. Insert instead:	21
	(6) A function conferred on an inspector may not be exercised unless	22
	the inspector proposing to exercise the power is in possession of	23
	and, if required to do so by the occupier of the premises,	24
	produces:	25
	(a) in the case of an inspector authorised by the Minister—an	26
	identification card issued by the Minister, or	27
	(b) in the case of an inspector authorised by a controlling	28
	body—an identification card issued by the controlling	29
	body.	30

(7)	In this section:	1
	<i>inspector</i> means:	2
(a)	a person authorised in writing by the Minister either generally or in a particular case to be an inspector under this section, or	3 4 5
(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.	6 7 8 9 10
[17]	<b>Schedule 1 Savings and transitional provisions</b>	11
	Insert at the end of clause 1 (1):	12
	<i>the Wagering Legislation Amendment Act 2010</i>	13
[18]	<b>Schedule 1, Part 8</b>	14
	Insert after clause 13:	15
	<b>Part 8 Provisions consequent on enactment of Wagering Legislation Amendment Act 2010</b>	16 17 18
14	<b>Definition</b>	19
	In this Part:	20
	<i>2010 amending Act</i> means the <i>Wagering Legislation Amendment Act 2010</i> .	21 22
15	<b>Existing sports betting events</b>	23
	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.	24 25 26 27 28
16	<b>Existing sports betting authorities</b>	29
(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.	30 31 32 33

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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.	1 2 3
<b>17</b>	<b>Dissolution of the Bookmakers Revision Committee</b>	4
	The Bookmakers Revision Committee is dissolved.	5

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<b>Schedule 2</b>	<b>Amendment of Unlawful Gambling Act</b>	1
	<b>1998 No 113</b>	2
<b>[1]</b>	<b>Section 8 Offences relating to unlawful betting</b>	3
	Omit “sports betting event” from section 8 (1) (b) and (6) (b), (c), (e) and (f) wherever occurring.	4
	Insert instead “declared betting event”.	5
<b>[2]</b>	<b>Section 8 (6) (c)</b>	7
	Omit “sports betting bookmaker”. Insert instead “betting event bookmaker”.	8
<b>[3]</b>	<b>Section 8 (6) (c)</b>	9
	Omit “sports betting authority”. Insert instead “betting authority”.	10
<b>[4]</b>	<b>Section 8 (6) (d)</b>	11
	Omit “carried on by”. Insert instead “made with or accepted by”.	12
<b>[5]</b>	<b>Section 8 (6) (d1)</b>	13
	Insert after section 8 (6) (d):	14
	(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,	15
		16
		17
		18
<b>[6]</b>	<b>Section 8 (7)</b>	19
	Omit the subsection. Insert instead:	20
	(7) In this section, <i>authorised betting auditorium</i> , <i>authorised betting event bookmaker</i> , <i>betting authority</i> , <i>controlling body</i> and <i>declared betting event</i> have the same meanings as in the <i>Racing Administration Act 1998</i> .	21
		22
		23
		24
<b>[7]</b>	<b>Section 9 Offence of unlawful bookmaking</b>	25
	Omit section 9 (2). Insert instead:	26
	(2) A person who is a licensed bookmaker must not carry on bookmaking except:	27
		28
	(a) at a licensed racecourse when it is lawful for betting to take place at the racecourse, or	29
		30

(b)	as permitted under section 16 (Authority to conduct telephone or electronic betting) of the <i>Racing Administration Act 1998</i> .	1 2 3
	Maximum penalty:	4
(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	5 6 7 8
(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).	9 10 11 12
<b>[8]</b>	<b>Section 11A</b>	13
	Insert after section 11:	14
<b>11A</b>	<b>Offence of providing remote access betting facilities</b>	15
(1)	A person must not make a remote access betting facility available in a public place for use by persons frequenting that place.	16 17
	Maximum penalty:	18
(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	19 20 21 22
(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).	23 24 25 26
(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 <i>Totalizator Act 1997</i> .	27 28 29 30
(3)	In this section:	31
	<b><i>public place</i></b> 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 <i>Registered Clubs Act 1976</i> and licensed premises under the <i>Liquor Act 2007</i> .	32 33 34 35 36 37 38
	<b><i>remote access betting facility</i></b> means any device (such as a computer terminal or telephone) that is for use primarily or	39 40

	exclusively for betting on any event or contingency or for facilitating betting on any event or contingency.	1 2
<b>[9] Section 49</b>		3
	Omit the section. Insert instead:	4
<b>49 Evidentiary provisions relating to betting</b>		5
	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 <i>Racing Administration Act 1998</i> is evidence of the truth of the allegation concerned unless the contrary is proved.	6 7 8 9 10 11 12
<b>[10] Schedule 1 Savings and transitional provisions</b>		13
	Insert at the end of clause 1 (1):	14
	<i>Wagering Legislation Amendment Act 2010</i>	15
<b>[11] Schedule 1, Part 3</b>		16
	Insert after clause 2:	17
<b>Part 3 Provision consequent on enactment of Wagering Legislation Amendment Act 2010</b>		18 19 20
<b>3 Evidentiary provisions relating to declared betting events</b>		21
	In relation to proceedings for an offence that is alleged to have been committed before the substitution of section 49 by the <i>Wagering Legislation Amendment Act 2010</i> , that section continues to apply as if it had not been substituted.	22 23 24 25



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(5)	For the purposes of this section, an investor is an <i>eligible investor</i> in respect of a financial year if the investor had a betting account with the licensee during the financial year, and:	1
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		3
(a)	was resident outside Australia for not less than 11 months of the financial year, or	4
		5
(b)	invested, from that account, a total of not less than \$3 million in totalizators conducted by the licensee during the financial year.	6
		7
		8
(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.	9
		10
		11
[2]	<b>Schedule 4 Savings and transitional provisions</b>	12
	Insert at the end of clause 1 (1):	13
	<i>Wagering Legislation Amendment Act 2010</i>	14
[3]	<b>Schedule 4, Division 4</b>	15
	Insert after clause 7:	16
<b>Division 4</b>	<b>Provisions consequent on enactment of Wagering Legislation Amendment Act 2010</b>	17
		18
<b>8</b>	<b>Transitional arrangement for betting tax refunds</b>	19
	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:	20
		21
		22
(a)	the refund applies only to tax paid in respect of a totalizator conducted on or after the commencement of section 11,	23
		24
(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,	25
		26
		27
(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,	28
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(d)	the total investments of an eligible investor during the financial year include investments made before the commencement of section 11.	33
		34
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<b>Schedule 4</b>	<b>Amendment of other Acts</b>	1
<b>4.1</b>	<b>Greyhound Racing Act 2009 No 19</b>	2
[1]	<b>Section 19 Registration of bookmakers</b>	3
	Omit “authorised sports betting bookmaker” from section 19 (5) (b).	4
	Insert instead “authorised betting event bookmaker”.	5
[2]	<b>Section 19 (9), definition of “authorised sports betting bookmaker”</b>	6
	Omit the definition. Insert instead:	7
	<i>authorised betting event bookmaker</i> has the same meaning as in	8
	section 4 of the <i>Racing Administration Act 1998</i> .	9
<b>4.2</b>	<b>Harness Racing Act 2009 No 20</b>	10
[1]	<b>Section 19 Registration of bookmakers</b>	11
	Omit “authorised sports betting bookmaker” from section 19 (5) (b).	12
	Insert instead “authorised betting event bookmaker”.	13
[2]	<b>Section 19 (9), definition of “authorised sports betting bookmaker”</b>	14
	Omit the definition. Insert instead:	15
	<i>authorised betting event bookmaker</i> has the same meaning as in	16
	section 4 of the <i>Racing Administration Act 1998</i> .	17
<b>4.3</b>	<b>Thoroughbred Racing Act 1996 No 37</b>	18
[1]	<b>Section 14A Licensing of bookmakers</b>	19
	Omit “authorised sports betting bookmaker” from section 14A (4) (c) (ii).	20
	Insert instead “authorised betting event bookmaker”.	21
[2]	<b>Section 14A (9), definition of “authorised sports betting bookmaker”</b>	22
	Omit the definition. Insert instead:	23
	<i>authorised betting event bookmaker</i> has the same meaning as in	24
	section 4 of the <i>Racing Administration Act 1998</i> .	25
<b>4.4</b>	<b>Totalizator Act 1997 No 45</b>	26
[1]	<b>Section 6 Meaning of “totalizator”</b>	27
	Omit “sporting” from the note to the section.	28

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<b>[2] Section 12 Licences may be granted to conduct totalizators of various kinds</b>	1 2
Omit section 12 (1) (b). Insert instead:	3
(b) any declared betting event (within the meaning of the <i>Racing Administration Act 1998</i> ).	4 5
<b>[3] Section 13 Licensee can be approved to conduct other betting activities</b>	6
Omit section 13 (2) (b). Insert instead:	7
(b) any declared betting event (within the meaning of the <i>Racing Administration Act 1998</i> ).	8 9
<b>[4] Section 14 TAB entitled to exclusive off-course totalizator licence</b>	10
Omit section 14 (1) (b). Insert instead:	11
(b) any declared betting event (within the meaning of the <i>Racing Administration Act 1998</i> ).	12 13
<b>[5] Section 15 TAB and racing clubs entitled to exclusive on-course totalizator licences</b>	14 15
Omit section 15 (1) (b). Insert instead:	16
(b) any declared betting event (within the meaning of the <i>Racing Administration Act 1998</i> ).	17 18
<b>[6] Schedule 2 Savings, transitional and other provisions</b>	19
Insert at the end of clause 1 (1):	20
<i>Wagering Legislation Amendment Act 2010</i>	21

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<b>[7] Schedule 2, Part 6</b>	1
Insert after clause 20:	2
<b>Part 6 Provision consequent on enactment of Wagering Legislation Amendment Act 2010</b>	3 4 5
<b>21 Existing licences to apply to declared betting events</b>	6
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 <i>Racing Administration Act 1998</i> is taken to authorise the licensee to conduct a totalizator or other betting activity in respect of declared betting events under that Act.	7 8 9 10 11 12