

Betting Tax Act 2001 No 43

[2001-43]



New South Wales

Status Information

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Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Notes—

- **Does not include amendments by**
[Miscellaneous Acts \(Local Court\) Amendment Act 2007 No 94](#) (not commenced)
- **See also**
[Statute Law \(Miscellaneous Provisions\) Bill 2008](#)

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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Contents

Long title 4

Part 1 Preliminary 4

1 Name of Act 4

2 Commencement 4

3 Definitions 4

4 Notes 5

5 Relationship with Taxation Administration Act 1996 5

5A Abolition of betting tax on bookmakers 5

Part 2 Imposition of betting tax 6

6 Race betting tax on bookmakers 6

7 Sports betting tax on bookmakers 6

8 Betting tax on commission on totalizator betting 7

9 Betting tax on totalizator roundings 7

10 Betting tax on approved betting activities 7

Part 3 Rebates of betting tax 8

11 Rebate of tax for bet back 8

12 Rebate of tax to racing clubs 9

Part 4 Returns 9

Note 9

13 Returns by bookmakers 9

14 Returns by racing clubs: race meetings 10

15 Returns by racing clubs: betting auditoriums 10

16 Returns by racing clubs: sports betting events 10

Part 5 Miscellaneous 10

17 Bookmakers to keep records 10

18 Proportion of tax paid in respect of totalizator on non-racing events to be paid into Sport and Recreation Fund
..... 11

19 Proceedings for offences 11

20 Regulations..... 11

21 Review of Act..... 11

22 (Repealed) 12

23 Repeals..... 12

24 Savings and transitional provisions 12

Schedules 1-3 (Repealed) 12

Schedule 4 Savings and transitional provisions 12

Betting Tax Act 2001 No 43



New South Wales

An Act to provide for the imposition of tax on certain betting; to repeal the *Bookmakers (Taxation) Act 1917* and the *Racing Taxation (Betting Tax) Act 1952*; and for other purposes.

Part 1 Preliminary

1 Name of Act

This Act is the *Betting Tax Act 2001*.

2 Commencement

This Act commences on 1 July 2001.

3 Definitions

In this Act:

backer means any person, including a bookmaker, who makes a bet with a bookmaker.

bet means any stake, pledge or wager in money made between a backer and a bookmaker on any event or contingency relating to:

- (a) a horse race, harness race or greyhound race, or
- (b) a sports betting event.

bet back means a bet, or an investment on a totalizator, by a bookmaker that is the same as a bet previously made with the bookmaker (or is the same except that the amount of the bookmaker's bet or investment is different from the amount of the bet made with the bookmaker, or that the odds given to the bookmaker are different from the odds given by the bookmaker).

betting auditorium means a betting auditorium authorised under section 24 of the *Racing Administration Act 1998*.

bookmaker includes any person:

- (a) who carries on the business of, or who acts as, a bookmaker, bookmaker's clerk or turf commission agent, or

(b) who gains, or endeavours to gain, a livelihood wholly or partly by betting or making wagers.

Chief Commissioner means the Chief Commissioner of State Revenue referred to in section 60 of the [Taxation Administration Act 1996](#).

exercise a function includes perform a duty.

function includes a duty.

meeting for greyhound racing means any meeting at which greyhound racing (that is, racing between greyhounds in competitive pursuit of a lure activated by mechanical means) is carried on.

meeting for harness racing means any meeting at which harness racing is carried on.

meeting for horse racing means any meeting (other than a meeting for harness racing) at which horse racing is carried on.

money includes any valuable thing or any security for money.

race meeting means a meeting for horse racing, meeting for harness racing or meeting for greyhound racing.

racecourse means any land that is used to hold or conduct a race meeting.

racing club means a club, association or body of persons or body corporate formed for promoting or controlling horse racing, harness racing or greyhound racing, or for holding race meetings.

sports betting event means an event or class of events declared to be a sports betting event or class of sports betting events under section 18 of the [Racing Administration Act 1998](#).

totalizator has the same meaning as in section 6 of the [Totalizator Act 1997](#).

totalizator licensee means the holder of a licence under the [Totalizator Act 1997](#).

4 Notes

Notes included in this Act do not form part of this Act.

5 Relationship with [Taxation Administration Act 1996](#)

This Act is to be read together with the [Taxation Administration Act 1996](#), which makes provision for the administration and enforcement of this Act and other taxation laws.

5A Abolition of betting tax on bookmakers

(1) Despite section 6, betting tax is not payable on bets made by backers with any

bookmaker on any event or contingency relating to a horse race, harness race or greyhound race, being a race held at any time after 30 March 2002.

- (2) Despite section 7, betting tax is not payable on bets made by backers with any bookmaker on the outcome of any event or contingency relating to a sports betting event held at any time after 30 March 2002.
- (3) Despite section 13, 15 or 16, a return is not required to be prepared or lodged under any of those sections in respect of a week beginning after 30 March 2002.
- (4) Despite section 14, a return is not required to be prepared or lodged under that section in relation to a race meeting conducted at any time after 30 March 2002.
- (5) Despite section 17, a written record is not required to be kept under that section of a bet made in relation to a horse race, harness race or greyhound race, or a sports betting event, held at any time after 30 March 2002.

Part 2 Imposition of betting tax

6 Race betting tax on bookmakers

- (1) Betting tax is payable on bets made by backers with any bookmaker, on any event or contingency relating to a horse race, harness race or greyhound race.
- (2) The tax payable is one per cent of the total amount of bets made by backers with any bookmaker.
- (3) The tax is payable by the bookmaker with whom the relevant bet is made.
- (4) The tax is payable by the second Thursday after the week (beginning at midnight on Saturday and ending at midnight on the next Saturday) in which the horse race, harness race or greyhound race is held.

7 Sports betting tax on bookmakers

- (1) Betting tax is payable on bets made by backers with any bookmaker on the outcome of any event or contingency relating to a sports betting event.
- (2) The tax payable is:
 - (a) in the case of a sports betting event where the form of the bet involves 4 or less outcomes—0.5 per cent of the total amount of bets made by backers with any bookmaker, or
 - (b) in any other case—one per cent of the total amount of bets made by backers with any bookmaker.
- (3) The tax is payable by the bookmaker with whom the relevant bet is made.

- (4) The tax is payable by the second Thursday after the week (beginning at midnight on Saturday and ending at midnight on the next Saturday) in which the sports betting event is held.

8 Betting tax on commission on totalizator betting

- (1) Betting tax is payable by a totalizator licensee on the commission deducted (under section 69 of the [Totalizator Act 1997](#)) from the total amount invested in each totalizator conducted by the licensee.
- (2) The tax payable is:
 - (a) 19.11 per cent of the total amount so deducted each day on which the totalizator licensee conducts a totalizator on one or more events or contingencies, or
 - (b) any lower percentage of that amount that the Governor may declare, on the recommendation of the Minister, by order published in the Gazette.
- (3) The tax is payable by the totalizator licensee conducting the relevant totalizator.
- (4) The tax is payable within 7 days after the day in respect of which the tax is payable.
- (5) A tax is not payable under this section on any amount that is applied by the totalizator licensee in rounding up an amount calculated as dividend.

9 Betting tax on totalizator roundings

- (1) Betting tax is payable on totalizator roundings.
- (2) The tax payable is 19.11 per cent of the total amount of roundings arising in respect of each day on which a totalizator is conducted by a totalizator licensee on one or more events or contingencies.
- (3) The tax is payable by the licensee.
- (4) The tax is payable within 7 days after the day in respect of which the roundings arose.
- (5) In this section:

rounding means an amount that would ordinarily form part of a dividend but that is retained by a licensee as a result of the rounding down of an amount calculated as dividend.

10 Betting tax on approved betting activities

- (1) Betting tax is payable on net earnings in connection with the total amount of bets placed with a totalizator licensee in respect of an approved betting activity conducted by the licensee on each day on which such an activity is conducted.
- (2) The tax payable is:

- (a) 19.11 per cent of the amount obtained by subtracting from the total amount of bets placed with the totalizator licensee in respect of an approved betting activity conducted by the licensee on a day the total amount payable as dividends or other returns to investors in respect of those bets, or
 - (b) any lower percentage of that amount that the Governor may declare, on the recommendation of the Minister, by order published in the Gazette.
- (3) The tax is payable by the totalizator licensee.
- (4) The tax is payable within 7 days after the day in respect of which the tax is payable.
- (5) In this section:

approved betting activity means a betting activity approved under section 13 of the [Totalizator Act 1997](#) to be conducted by a totalizator licensee under that Act.

Part 3 Rebates of betting tax

11 Rebate of tax for bet back

- (1) A bookmaker may claim a rebate of so much of the betting tax imposed by section 6 or 7 on the total amount of bets made with the bookmaker as relates to the total amount of bets back made by the bookmaker.
- (2) A claim under this section is to be granted if, and only if, each of the following conditions is met:
 - (a) the total amount of bets back to which the claim relates does not exceed the total amount of related bets made with the bookmaker,
 - (b) the claim is made in the form approved by the Chief Commissioner,
 - (c) the original sheet of the written record required by section 17 is lodged with the claim,
 - (d) any additional information or record that the Chief Commissioner may require is lodged in connection with the claim,
 - (e) each investment on the totalizator by way of a bet back to which the claim relates was made by way of an account established in connection with the totalizator in the name of the bookmaker who made the bet back,
 - (f) each bet back to which the claim relates that was made with another bookmaker is recorded in the written record (required by section 17) of the bookmaker with whom it was made,
 - (g) each bet back to which the claim relates is recorded in the written record (required by section 17) of the bookmaker who made it.

- (3) The Chief Commissioner must grant or refuse a claim for a rebate under this section (or must grant part of the claim and refuse part of the claim).
- (4) Part 5 of the [Taxation Administration Act 1996](#) does not apply to so much of the tax as is claimed by way of a rebate under this section. However, if any part of the claim is refused, that Part applies to so much of the tax as relates to the part of the claim that was refused, and it applies as if the day for payment of the tax were 7 days after the claimant is notified of the refusal.

12 Rebate of tax to racing clubs

- (1) The Minister may, by order published in the Gazette, give directions for the allowance of a rebate of the betting tax payable under Part 2 in relation to a race meeting by a licensee that is a racing club when the race meeting turnover in relation to a race meeting is less than:
 - (a) an amount specified in the direction, or
 - (b) an amount calculated in accordance with the provisions of the direction.
- (2) The total amount of betting tax required to be paid by a racing club in relation to a race meeting is reduced by the amount of any rebate to which the club is entitled under a direction under this section.
- (3) A direction under this section cannot make provision for the allowance of a rebate in respect of any betting tax payable on bets made with the racing club that section 17 of the [Totalizator Act 1997](#) (Requirements for conduct of on-course totalizators by racing clubs) provides are to be received by the racing club as an agent for the TAB.
- (4) In this section:

race meeting means a race meeting held by one racing club on one racecourse.

race meeting turnover, in relation to a race meeting, means the amount calculated in accordance with the relevant direction of the Minister as race meeting turnover.

Part 4 Returns

Note—

Section 57 of the [Taxation Administration Act 1996](#) imposes penalties with respect to the failure to lodge returns.

13 Returns by bookmakers

- (1) A bookmaker must prepare a return specifying all bets made with the bookmaker in the preceding week (beginning at midnight on Saturday and ending at midnight on the next Saturday).
- (2) The return must be lodged with the Chief Commissioner by the second Thursday after

the week to which it relates.

14 Returns by racing clubs: race meetings

- (1) A racing club must prepare a return in relation to each race meeting conducted by the racing club.
- (2) The return must specify the name and address of each person who carried on business as a bookmaker at that race meeting.
- (3) The return must be lodged with the Chief Commissioner within 7 days after the race meeting.

15 Returns by racing clubs: betting auditoriums

- (1) A racing club must prepare a return in relation to each betting auditorium established and conducted by the racing club in which bets were taken in the preceding week (beginning at midnight on Saturday and ending at midnight on the next Saturday).
- (2) The return must specify the name and address of each person who carried on business as a bookmaker in the auditorium during that week.
- (3) The return must be lodged with the Chief Commissioner on or before the first Friday after the week to which it relates.

16 Returns by racing clubs: sports betting events

- (1) A racing club must prepare a return in relation to each sports betting event on which bets were taken that was held at the racecourse on which the club conducts race meetings in the preceding week (beginning at midnight on Saturday and ending at midnight on the next Saturday).
- (2) The return must specify the name and address of each person who took bets as a bookmaker at that racecourse on any sports betting event during that week.
- (3) The return must be lodged with the Chief Commissioner on or before the first Friday following the end of the week to which it relates.

Part 5 Miscellaneous

17 Bookmakers to keep records

- (1) A bookmaker must keep a written record, setting out the true and accurate particulars of:
 - (a) every bet made with the bookmaker, and
 - (b) every bet back made by the bookmaker.
- (2) The record:

- (a) must indicate the horse races, harness races, greyhound races or sports betting events in connection with which the bets or bets back were made with or by the bookmaker, and
- (b) must include any other particular required by the Chief Commissioner.
- (3) The record must be kept in a form approved by the Chief Commissioner.
- (4) The record must be kept for at least 5 years after the bet or bet back to which it relates is made.

Maximum penalty: 100 penalty units.

18 Proportion of tax paid in respect of totalizator on non-racing events to be paid into Sport and Recreation Fund

- (1) This section applies to betting by means of a totalizator on any sporting event.
- (2) An amount equivalent to a proportion of the betting tax paid under this Act in respect of betting to which this section applies is to be paid into the Sport and Recreation Fund established under the [Public Lotteries Act 1996](#).
- (3) The proportion to be deducted is the proportion fixed by the Treasurer by order made after consultation with the Minister administering the provision of the [Public Lotteries Act 1996](#) under which the Sport and Recreation Fund is established.
- (4) Amounts required to be paid into the Sport and Recreation Fund under this section are to be paid from the Consolidated Fund, which is appropriated accordingly.

19 Proceedings for offences

Proceedings for an offence under this Act or the regulations are to be dealt with summarily by a Local Court.

20 Regulations

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) The regulations may create offences with a maximum penalty not exceeding 50 penalty units.

21 Review of Act

- (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.

- (2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

22 (Repealed)

23 Repeals

The following laws are repealed:

- (a) the *Bookmakers (Taxation) Act 1917*,
- (b) the *Bookmakers (Taxation) Amendment Act 1991*,
- (c) the *Bookmakers (Taxation) Regulation 1996*,
- (d) the *Racing Taxation (Betting Tax) Act 1952*,
- (e) the *Racing Taxation (Betting Tax) Amendment Act 2000*.

24 Savings and transitional provisions

Schedule 4 has effect.

Schedules 1-3 (Repealed)

Schedule 4 Savings and transitional provisions

(Section 24)

Division 1 Regulations

1 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:
this Act
- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
 - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or

- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

Division 2 Provisions consequent on enactment of this Act

2 Existing bets

Tax is payable under this Act on a bet in relation to a horse race, harness race, greyhound race or sports betting event held or conducted after the commencement of this Act whether or not the bet was placed before the commencement of this Act.

3 Existing liability to pay tax unaffected

The repeal of an Act or provision of an Act by this Act does not affect any liability to pay tax under that Act or provision in relation to a horse race, harness race, greyhound race or sports betting event held or conducted before the repeal or in relation to a day occurring before that repeal. The repealed Act, or the repealed provision, continues to apply to the payment and collection of that tax as if the Act or provision had not been repealed.

4 Existing entitlement to a rebate unaffected

The repeal of section 12A of the [Bookmakers \(Taxation\) Act 1917](#) and section 77 of the [Totalizator Act 1997](#) does not affect a person's entitlement to a rebate in relation to a tax liability that occurred before the repeal of those sections. A person can claim and be granted a rebate under those sections as if those sections had not been repealed.

5 Obligation to prepare returns

The repeal of sections 15A and 30 of the [Bookmakers \(Taxation\) Act 1917](#) does not affect a person's liability to prepare and lodge a return in relation to any period occurring, or any race meeting or sports betting event conducted or held, before the repeal of those sections.

6 Approved forms

Until forms are approved under section 11, the forms prescribed by Part 2 of the [Bookmakers \(Taxation\) Regulation 1996](#), as in force immediately before its repeal, are taken to be forms under section 11.