

# Betting Tax Act 2001 No 43

[2001-43]



New South Wales

## Status Information

### Currency of version

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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**  
[Statute Law \(Miscellaneous Provisions\) Act 2012 No 42](#) (not commenced — to commence on 6.7.2012)

### Authorisation

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# 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:

**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.

**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.

**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#### **4 (Repealed)**

#### **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#### **5A (Repealed)**

### **Part 2 Imposition of betting tax**

#### **6, 7 (Repealed)**

#### **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 10.91 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.

(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.

(4A) No betting tax is payable on net earnings in connection with the first \$255 million of the total amount of computer simulated racing event bets placed with a totalizator licensee in any financial year.

(4B) Subsection (4A) ceases to have effect at the end of 30 June 2034.

(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.

**computer simulated racing event bet** means a bet in respect of an approved betting activity conducted on a computer simulated horse racing, harness racing or greyhound racing event.

**financial year** means a year ending on 30 June.

## Part 3 Rebates of betting tax

### 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.

## **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**

### **13-16 (Repealed)**

## **Part 5 Miscellaneous**

### **17 (Repealed)**

### **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 the 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

*Wagering Legislation Amendment Act 2010*

- (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.

## Division 3 Provisions consequent on enactment of **State Revenue Legislation Further Amendment Act 2009**

### 7 Rate of betting tax on approved betting activities

- (1) The lower tax rate for betting tax on approved activities is taken to have had effect from the commencement of this Act.
- (2) The **lower tax rate for betting tax on approved activities** is the tax payable under section 10 (2), as substituted by the *State Revenue Legislation Further Amendment Act 2009*.

## 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.