

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—

- **Editorial note**

The Parliamentary Counsel's Office is progressively updating certain formatting styles in versions of NSW in force legislation published from 29 July 2019. For example, colons are being replaced by em-dashes. Text of the legislation is not affected.

This version has been updated.

Authorisation

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New South Wales

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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4 (Repealed)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 Extraterritorial operation of Act

- (1) It is the intention of the Parliament of New South Wales that the operation of this Act should, as far as possible, include operation in relation to the following—
 - (a) things situated in or outside the territorial limits of the State,
 - (b) acts, transactions and matters done, entered into or occurring in or outside the territorial limits of the State,
 - (c) things, acts, transactions and matters (wherever situated, done, entered into or occurring) that would, apart from this Act, be governed or otherwise affected by the law of another State, a Territory, the Commonwealth or a foreign country.
- (2) Without limiting subsection (1), it is the intention of the Parliament of New South Wales that the provisions of this Act have an operation in relation to the things, acts, transactions and matters referred to in that subsection even if the rules of private international law (whether at general law or as provided by legislation) would require the application of a law other than this Act instead of the provisions of this Act.

5B Notes

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

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) the relevant percentage 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.

(2A) The relevant percentage is—

- (a) in respect of a totalizator conducted during the period commencing on 1 July 2015 and ending on 30 June 2016—16.2%, or
- (b) in respect of a totalizator conducted during the period commencing on 1 July 2016 and ending on 30 June 2018—13.5%, or
- (c) in respect of a totalizator conducted during the period commencing on 1 July 2018 and ending on 30 June 2019—12.17%, or
- (d) in respect of a totalizator conducted during the period commencing on 1 July 2019 and ending on 30 June 2020—10.7%, or
- (e) in respect of a totalizator conducted during the period commencing on 1 July 2020 and ending on 30 June 2022—7.6%, or
- (f) in respect of a totalizator conducted on or after 1 July 2022—3.49%.

(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 the relevant percentage 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.

(2A) The relevant percentage is—

- (a) in respect of a totalizator conducted during the period commencing on 1 July 2015 and ending on 30 June 2016—16.2%, or
- (b) in respect of a totalizator conducted during the period commencing on 1 July 2016 and ending on 30 June 2018—13.5%, or
- (c) in respect of a totalizator conducted during the period commencing on 1 July 2018

and ending on 30 June 2019—12.17%, or

(d) in respect of a totalizator conducted during the period commencing on 1 July 2019 and ending on 30 June 2020—10.7%, or

(e) in respect of a totalizator conducted during the period commencing on 1 July 2020 and ending on 30 June 2022—7.6%, or

(f) in respect of a totalizator conducted on or after 1 July 2022—3.49%.

(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 the relevant percentage 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.

(2A) The relevant percentage is—

(a) in respect of an approved betting activity (other than a computer simulated racing event betting activity) conducted—

(i) during the period commencing on 1 July 2015 and ending on 30 June 2016—9.2%, or

(ii) during the period commencing on 1 July 2016 and ending on 30 June 2018—7.43%, or

(iii) during the period commencing on 1 July 2018 and ending on 30 June 2019—6.6%, or

(iv) during the period commencing on 1 July 2019 and ending on 30 June 2020—5.8%, or

(v) during the period commencing on 1 July 2020 and ending on 30 June

2022—4.38%, or

(vi) on or after 1 July 2022—8.47%, or

(b) in respect of a computer simulated racing event betting activity—15%.

(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 a computer simulated racing event betting activity.

computer simulated racing event betting activity means 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 Offsets and rebates of betting tax

11 Offset of betting tax paid by totalizator licensee

(1) (Repealed)

(2) A totalizator licensee is entitled to an offset against the betting tax payable by the licensee under sections 8 and 10 of an amount equal to the sum of—

(a) 15% of the excluded commission for the day concerned, and

(b) 15% of the excluded net earnings for the day concerned.

(3) If, in respect of any financial year, a totalizator licensee's excluded commissions for the financial year exceed the sum of the amounts of excluded commission for each day of the financial year, the Chief Commissioner is to pay to the totalizator licensee an amount equal to 15% of the difference.

Note—

Section 111 of the *Taxation Administration Act 1996* provides that if the Chief Commissioner is authorised or

required to pay an amount under any taxation law, the amount is to be paid from the Consolidated Fund which is appropriated to the necessary extent.

- (4) If, in respect of any financial year, a totalizator licensee's excluded net earnings for the financial year exceed the sum of the amounts of excluded net earnings for each day of the financial year, the Chief Commissioner is to pay to the totalizator licensee an amount equal to 15% of the difference.

Note—

Section 111 of the *Taxation Administration Act 1996* provides that if the Chief Commissioner is authorised or required to pay an amount under any taxation law, the amount is to be paid from the Consolidated Fund which is appropriated to the necessary extent.

- (5) Nothing in this section requires a totalizator licensee to pay betting tax for any period before the offset under this section is applied to that liability.

Note—

Division 2 of Part 6 of the *Taxation Administration Act 1996* enables the Chief Commissioner to approve special arrangements for the lodging of returns and payment of tax under taxation laws.

- (6) For the avoidance of doubt, the reference in section 70 (2) (a) of the *Totalizator Act 1997* to a total amount of betting tax payable by TAB Limited under sections 8-10 of this Act in respect of a quarter does not include any offset under this section.

- (7) In this section—

approved betting activity has the same meaning as in section 10.

excluded commission, for a period, means the lesser of the following—

- (a) the total amount of commission deducted (under section 69 of the *Totalizator Act 1997*) from the amounts invested with the licensee in totalizators during the period concerned by investors who were not, at the time of the investment, located in NSW,
- (b) 5.5% of the total commission deducted (under section 69 of the *Totalizator Act 1997*) from the total amount invested with the licensee in totalizators during the period concerned by all investors.

excluded net earnings, for a period, means the lesser of the following—

- (a) the total amount of net earnings from bets placed with the totalizator licensee by persons who were not, at the time the bet was placed, located in NSW in respect of approved betting activities conducted by the licensee during the period concerned,
- (b) 4% of the total amount of net earnings from all bets placed with the totalizator licensee in respect of approved betting activities conducted by the licensee during the period concerned.

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 Point of consumption tax

Division 1 Preliminary

13 Definitions

In this Part—

approved form means a form approved by the Chief Commissioner.

bet includes the following—

- (a) any bet or wager on any event or contingency, including but not limited to events and contingencies relating to the outcomes of racing, sports, elections, current affairs and entertainment,
- (b) a free bet,
- (c) a lay-off bet,
- (d) any other similar agreement or arrangement prescribed by the regulations,

but does not include any activity permitted under section 7 of the *Unlawful Gambling Act*

1998 or under a corresponding provision of a law of another State or a Territory or the Commonwealth.

betting exchange and **bookmaker** have the same meanings as those terms have in the *Betting and Racing Act 1998*.

betting operator means a licensed betting service provider within the meaning of the *Betting and Racing Act 1998*.

Note—

The *Betting and Racing Act 1998* defines a **licensed betting service provider** to be a betting service provider (being a bookmaker, a person who operates a totalizator or a person who operates a betting exchange) that holds a licence or authority (however described) under the legislation of this or any other State or Territory to carry out its betting services (whether in that State or Territory, or elsewhere).

free bet means a bet made wholly or partly without the person making the bet paying any monetary amount for the bet or part of the bet.

Note—

Examples of a free bet (also known as a bonus bet) include a bet made using the following—

- (a) a free component provided for making a bet,
- (b) an amount representing a bonus on a previous winning bet,
- (c) an amount representing a refund of all or part of the staked amount for a previous non-winning bet.

lay-off bet means a bet made by a betting operator (the **first betting operator**) with another betting operator to reduce, wholly or partly, the liability of the first betting operator in relation to 1 or more bets made with the first betting operator.

net NSW wagering revenue—see section 13A.

point of consumption tax—see section 13C.

totalizator derived odds means any odds derived from or contingent on totalizator odds but does not include totalizator odds.

totalizator odds means any odds that are dependent on the result of the working of a totalizator on an event or contingency.

13A Meaning of “net NSW wagering revenue”

- (1) The **net NSW wagering revenue** of a betting operator, for a period, is the sum of the following—
 - (a) for NSW bets made with the betting operator using a totalizator—the total of all NSW revenue from totalizator pools paid to the betting operator during the period,
 - (b) for NSW bets made using a betting exchange operated by the betting operator—the total amount of all fees or commissions paid to the betting operator

in relation to NSW betting exchange bets made with the betting operator during the period,

(c) for NSW bets made with the betting operator (other than NSW bets made using a betting exchange or a totalizator)—the sum of the following during the period—

(i) the total amount of all NSW bets (including, but not limited to, bets placed at fixed odds and at totalizator derived odds) made with the betting operator (including the face value of any free bets),

(ii) the total of any fees or commission associated with making the bets,

less the sum of the following—

(iii) the total amount of winnings paid or payable in relation to those bets (including winnings paid in relation to free bets, but not including winnings paid in the form of a credit or entitlement that cannot be converted to money),

(iv) the total amount of refund paid or payable in relation to those bets (other than amounts paid or payable in the form of a credit or entitlement that cannot be converted to money),

(d) any amounts the betting operator became entitled to retain during the period on account of unclaimed winnings in relation to NSW bets,

(e) any other amounts the betting operator became entitled to be paid during the period as consideration for, or in relation to, NSW bets made with the betting operator.

Note—

In calculating the net NSW wagering revenue of a betting operator—

(a) lay-off bets accepted by the betting operator placed by a person (or another betting operator) located in NSW are included, and

(b) lay-off bets that the betting operator places with a person (or another betting operator) are not included.

(2) For the avoidance of doubt, for the purposes of this section, the same betting operator can operate a totalizator, operate a betting exchange and be a bookmaker.

(3) In the section—

NSW revenue, from a totalizator pool, for a betting operator during a period, means the amount calculated using the formula—

$$\text{NSW revenue} = \left(1 - \frac{\text{Dividends}_{\text{total}}}{\text{Bets}_{\text{total}}}\right) \times \text{Bets}_{\text{NSW}}$$

where—

Dividends_{total} means the total amount of dividends paid or payable out of the totalizator pool to investors.

Bets_{total} means the total amount of bets placed in the totalizator pool.

Bets_{NSW} means the total amount of NSW bets placed with the betting operator in the totalizator pool.

totalizator pool means a pool of totalizator bets made on the outcome of an event or contingency.

13B Meaning of “NSW bet”

- (1) A reference in this Part to a **NSW bet**, or a NSW bet of a particular type, is a reference to a bet, or a bet of that type, made by a person who is located in NSW when the bet is made.
- (2) For the avoidance of doubt, a lay-off bet made by a betting operator who is located in NSW when it is made is a NSW bet, whether or not the liability the betting operator seeks to reduce by making the lay-off bet relates to NSW bets made with the betting operator.

Division 2 Imposition of point of consumption tax

13C Liability to pay point of consumption tax

- (1) A betting operator is liable to pay tax on the operator’s net NSW wagering revenue for a financial year (**point of consumption tax**).
- (2) Point of consumption tax is payable in respect of a financial year as follows—
 - (a) if the net NSW wagering revenue for the financial year is \$1,000,000 or less—no tax is payable,
 - (b) if the net NSW wagering revenue for the financial year is more than \$1,000,000—tax is payable at the rate of 15% of the amount by which the net NSW wagering revenue exceeds \$1,000,000.

13D Tax to be paid monthly

- (1) A betting operator is liable to pay point of consumption tax for each month of the amount specified in this section.
- (2) For any month of a financial year before the qualifying month, if any, the amount is nil.
- (3) For the qualifying month of a financial year, the amount is 15% of the difference

between—

(a) the net NSW wagering revenue of the betting operator for the period starting on 1 July in the financial year and ending on the last day of the qualifying month, and

(b) \$1,000,000.

(4) For any month of a financial year after the qualifying month, the amount is—

(a) if the net NSW wagering revenue of the betting operator for the month is nil or a negative amount—nil, or

(b) in any other case—15% of the net NSW wagering revenue of the betting operator for the month.

(5) If point of consumption tax is payable in relation to a month, the tax is to be paid within 21 days after the end of that month.

(6) In this section, **qualifying month**, in relation to a financial year, for a betting operator, means the first month of the financial year in which the net NSW wagering revenue of the betting operator for the period starting on 1 July in the financial year and ending on the last day of the month is more than \$1,000,000.

13E Annual reconciliation

A betting operator's point of consumption tax liability is to be recalculated after the end of the relevant financial year.

Note—

Section 18 of the [Taxation Administration Act 1996](#) provides that if a taxpayer has paid a greater amount of tax in relation to a tax liability than the amount assessed for that liability, the Chief Commissioner must refund the difference to the taxpayer.

Division 3 Registration

13F Requirement to apply for registration

(1) This section applies to a betting operator if—

(a) the betting operator is not already registered under this Division as a betting operator, and

(b) for any month of a financial year, the net NSW wagering revenue of the betting operator for the period starting on 1 July in the financial year and ending on the last day of the month is equal to or more than \$1,000,000.

(2) The betting operator must, within 7 days after the end of the month, give the Chief Commissioner an application, in an approved form, for registration under this Division as a betting operator.

Maximum penalty—100 penalty units.

13G Registration of betting operator

- (1) If a betting operator applies under this Division for registration as a betting operator, the Chief Commissioner must register the betting operator.
- (2) If a betting operator who is required to apply for registration under this Division does not apply for that registration, the Chief Commissioner may register the betting operator.

13H Notice of registration

- (1) The Chief Commissioner must, as soon as practicable after registering a betting operator under this Part, give the betting operator a notice stating—
 - (a) that the betting operator has been registered as a betting operator under this Division, and
 - (b) the day the betting operator was registered.
- (2) The notice may also state any other matters that are reasonably incidental to the performance of the betting operator's obligations under this Act or the [Taxation Administration Act 1996](#).

Note—

Examples of other matters include—

- (a) the betting operator's client number, and
- (b) records required to be kept under the [Taxation Administration Act 1996](#) relating to the betting operator's liability under this Act.

13I Cancellation of registration

- (1) The Chief Commissioner must cancel the registration of a person as a betting operator under this Part if the person has—
 - (a) ceased to be a betting operator, and
 - (b) lodged all returns the person is required to lodge under this Part, and
 - (c) paid the person's liability in relation to those returns.
- (2) As soon as practicable after cancelling a person's registration under subsection (1), the Chief Commissioner must give the person a notice—
 - (a) stating that the person's registration has been cancelled, and
 - (b) specifying the day the registration was cancelled.

Division 4 Returns

13J Application of Division

This Division applies to a betting operator who, for all or part of a financial year, is a betting operator who—

- (a) is registered under Division 3, or
- (b) is required to apply for registration under section 13F.

13K Requirement to lodge monthly returns

- (1) The betting operator must, not later than 21 days after the last day of the month, lodge a return (a **monthly return**) in relation to the net NSW wagering revenue of the betting operator for the month.

Maximum penalty—100 penalty units.

Note—

Part 6 of the [Taxation Administration Act 1996](#) contains other provisions concerning returns (including provisions relating to the form of return, extensions of time for lodging returns and special tax return arrangements).

- (2) A monthly return is to be in an approved form.
- (3) Subsection (1) applies even if the betting operator's monthly liability for the month is nil.

Division 5 Betting operators to identify person's location

13L Obligation of betting operator to identify person's location

- (1) A betting operator must, when receiving a bet, take reasonable steps to identify the location of the person making the bet.

Maximum penalty—100 penalty units.

- (2) For the purposes of subsection (1), a betting operator may rely on the following as being the location of a person making a bet with the betting operator—
 - (a) for an individual—an address given to the betting operator by the individual as the individual's residential address,
 - (b) for a corporation—an address given to the betting operator by or for the corporation as the corporation's principal place of business.
- (3) However, subsection (2) does not apply if the betting operator knows, or has reasonable grounds to suspect, that an address specified in subsection (2) (a) or (b) is not the location of the person when the bet is made.

Division 6 Hypothecation of tax revenue

13M Appropriation and payment of revenue to industry

- (1) The Treasurer is, in respect of a financial year in which point of consumption tax was collected, to pay an amount equal to 33% of the prescribed amount to the following bodies—
 - (a) Racing New South Wales,
 - (b) Harness Racing New South Wales,
 - (c) Greyhound Racing New South Wales.
- (2) The amount determined under subsection (1) is to be paid in quarterly instalments in the following proportions—
 - (a) to Racing New South Wales—72%,
 - (b) to Harness Racing New South Wales—15%,
 - (c) to Greyhound Racing New South Wales—13%.

Note—

The proportions specified in this subsection are the same as the proportions for the distribution of amounts under the *Racing Inter-Code Deed* dated 27 February 1998 between NSW Racing Pty Limited, the NSW Thoroughbred Racing Board, Harness Racing New South Wales and the Greyhound Racing Authority (NSW) as in force on the commencement of this section.

- (3) If the Treasurer determines that a body was overpaid or underpaid in respect of any financial year, the Treasurer may deduct an amount from, or pay an extra amount with, a subsequent payment under this section to that body, as the case requires.
- (4) Amounts required to be paid under this section are to be paid from the Consolidated Fund, which is appropriated accordingly.
- (5) In this section—

prescribed amount, for a financial year, means the amount of point of consumption tax payable under this Part during the financial year, less the amount of any offset against the point of consumption tax under section 13P.

quarter means a period of 3 months ending on 31 March, 30 June, 30 September or 31 December.

13N Appropriation and payment of revenue to Responsible Gambling Fund

- (1) The Treasurer is, for the period from 1 January 2019 to 30 June 2019, to pay \$2,500,000 to the Responsible Gambling Fund established under section 115 of the [Casino Control Act 1992](#).

- (2) That amount is to be paid from the Consolidated Fund, which is appropriated accordingly.
- (3) The Treasurer may, for subsequent financial years, pay to the Responsible Gambling Fund from the Consolidated Fund other amounts appropriated by Parliament.
- (4) Any amount paid under this section is to be the subject of the creation and operation of a trust deed appointing trustees and containing provisions approved by the Minister administering the *Casino Control Act 1992* (the **Minister**) relating to the expenditure of that money for purposes relating to responsible gambling.
- (5) The trustees may make recommendations to the Minister as to the application of money (appropriate to the trust deed) for purposes relating to responsible gambling and the Minister may pay money out of the Responsible Gambling Fund in accordance with any such recommendations.
- (6) The trustees, when making recommendations for payment of money out of the Responsible Gambling Fund, are required to take into account any policy guidelines issued to the trustees by the Minister for the purpose of giving effect to the provisions of the trust deed relating to expenditure for purposes relating to responsible gambling.
- (7) The Minister may also pay money out of the Responsible Gambling Fund for any purpose that is consistent with the provisions of the trust deed but only after consulting with the trustees on the proposed expenditure.

130 Special appropriation to Greyhound Welfare and Integrity Commission

- (1) The Treasurer is, for the period from 1 January 2019 to 30 June 2019, to pay \$2,000,000 to the Greyhound Welfare and Integrity Commission.
- (2) That amount is to be paid from the Consolidated Fund, which is appropriated accordingly.
- (3) This section does not prevent any other appropriation or payment to the Greyhound Welfare and Integrity Commission.

Division 7 Offset against point of consumption tax

13P Offset of tax to totalizator licensee

- (1) A totalizator licensee is entitled, for a financial year, to an offset against the point of consumption tax payable by the licensee in an amount equal to the sum of the following—
 - (a) the amount of betting tax under Part 2 paid by the licensee for that financial year less any offset for the financial year under section 11,
 - (b) the tax reduction amount for that financial year paid by the licensee under section

70 of the *Totalizator Act 1997*.

- (2) For the avoidance of doubt, if in relation to a financial year the amount of a totalizator licensee's offset under this section is greater than the amount of the totalizator licensee's point of consumption tax liability under this Part, the totalizator licensee is not entitled to a refund of that excess amount.
- (3) Nothing in this Part requires a totalizator licensee to pay point of consumption tax for any period before the offset under this section for that period is applied to that liability.

Note—

Division 2 of Part 6 of the *Taxation Administration Act 1996* enables the Chief Commissioner to approve special arrangements for the lodging of returns and payment of tax under taxation laws.

Division 8 Multi-jurisdictional agreements

13Q Treasurer may enter into agreements

- (1) The Treasurer may enter into an agreement (a **multi-jurisdictional agreement**) with 1 or more other Australian jurisdictions to establish and implement processes for achieving improvements in the assessment and collection of taxes, interest and penalties imposed by the participating jurisdictions on betting operations that are carried on in multiple jurisdictions.
- (2) A multi-jurisdictional agreement may—
 - (a) provide for the collection of taxes, interest and penalties by a participating jurisdiction on behalf of other participating jurisdictions and for the distribution of amounts so collected, and
 - (b) provide for each participating jurisdiction to collect, on behalf of all participating jurisdictions, taxes, interest and penalties payable to those jurisdictions by betting operators whose businesses are based in the collecting jurisdiction, and
 - (c) provide for participating jurisdictions to undertake audits or investigations in respect of taxes, interest and penalties payable by a betting operator under the law of another participating jurisdiction, and
 - (d) authorise the performance of functions under this Act or the *Taxation Administration Act 1996* by a specified authority of a participating jurisdiction, subject to subsection (4) and any other limitations specified in the agreement, and
 - (e) authorise the performance of functions under a specified law of another participating jurisdiction by the Chief Commissioner, subject to any law of that jurisdiction and any other limitations specified in the agreement, and
 - (f) provide for participating jurisdictions to assist each other in making timely and

accurate determinations of taxes, interest and penalties payable by sharing information available to them, including the results of audits and investigations and any other information of a kind specified in the agreement, and

(g) provide for any other measures or matters that the participating jurisdictions consider necessary or expedient for achieving improvements in the assessment or collection of taxes, interest and penalties or for implementing processes established by the agreement for that purpose.

(3) A multi-jurisdictional agreement operates for the period, and may be varied or terminated in such a manner, as the participating jurisdictions agree.

(4) A multi-jurisdictional agreement—

(a) must be consistent with the provisions of this Act and the *Taxation Administration Act 1996*, and

(b) cannot authorise a participating jurisdiction—

(i) to make a binding determination of the amount of tax, interest or penalties payable by a betting operator under the laws of another participating jurisdiction, or

(ii) to take enforcement action in respect of tax, interest or penalties payable by a betting operator under the laws of another participating jurisdiction.

(5) The Chief Commissioner is to take such action as is necessary or expedient to giving effect to a multi-jurisdictional agreement.

(6) In this section, ***participating jurisdiction*** means New South Wales and another State or a Territory that enters into a multi-jurisdictional agreement.

Division 9 Miscellaneous

13R Regulations

Regulations may be made for or with respect to the following—

(a) methods for determining the location of persons making bets with, or through a service provided by, a betting operator,

(b) providing specified amounts associated with the making of bets that are to be included, or not included, in net NSW wagering revenue,

(c) matters necessary or expedient to give effect to a multi-jurisdictional agreement under section 13Q,

(d) providing that specified persons or classes of persons are, or are not, betting operators,

- (e) exceptions to and exemptions from liability to pay point of consumption tax.

135 Avoidance of point of consumption tax

- (1) If a person enters into an agreement, transaction or arrangement, whether in writing or otherwise, that has the effect of reducing, postponing or avoiding the liability of any person to the assessment, imposition or payment of point of consumption tax, the Chief Commissioner may—
- (a) disregard the agreement, transaction or arrangement for 1 or more periods, and
 - (b) determine 1 or more of the matters mentioned in subsection (2).
- (2) The matters are the following—
- (a) that the net NSW wagering revenue of a betting operator for a particular period is to be taken to include an additional amount,
 - (b) that a bet made with a betting operator—
 - (i) is to be taken to have been made by a person other than the person who purportedly made the bet or at a place other than the place where the bet was purportedly made, and
 - (ii) if applicable, is a NSW bet within the meaning of this Part for calculating the net NSW wagering revenue of the betting operator for a particular period,
 - (c) that—
 - (i) a party to the agreement, transaction or arrangement is to be taken to be a betting operator, and
 - (ii) a payment made in respect of the agreement, transaction or arrangement is to be taken to be part of the net NSW wagering revenue of the party for a particular period.
- (3) If the Chief Commissioner makes a determination under subsection (1) (b) about a betting operator or another party to the agreement, transaction or arrangement, the Chief Commissioner must give the betting operator or party a notice that states the decision and the reasons for the decision.
- (4) A person who, by any act or omission, avoids or attempts to avoid point of consumption tax imposed is guilty of an offence.

Maximum penalty—100 penalty units and triple the amount of point of consumption tax avoided or attempted to be avoided.

14-16 (Repealed)

Part 5 Miscellaneous

17, 18 (Repealed)

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)

Part 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

 any Act that amends 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.
- (4) Without limiting subclauses (1) and (2), regulations made for the purposes of this clause may amend this Schedule to provide for additional or different savings and transitional provisions instead of including the provisions in the regulations.

Part 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.

Part 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*.

Part 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.

Part 5 Provisions consequent on enactment of **Betting Tax Amendment (Point of Consumption) Act 2018**

9 Point of consumption tax January-June 2019

For the purposes of the application of Part 4 of this Act during the period from 1 January 2019 to 30 June 2019, a reference in that Part in relation to that period to—

- (a) a financial year—is taken to be a reference to that 6-month period, and
- (b) a period starting on 1 July—is taken to be a reference to a period starting on 1 January, and
- (c) an amount of \$1,000,000—is taken to be a reference to \$500,000.