

TOTALIZATOR (AMENDMENT) BILL 1991

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The object of this Bill is to amend the Totalizator Act 1916 (“the Principal Act”) so as:

- (a) to recognise the use of independent contractors by racing clubs in the conduct of totalizator betting at racecourses operated by those clubs; and
- (b) to change the formula for the disbursement of totalizator commission deducted from investments made under section 3B of that Act (Common-pool totalizator betting) where those investments are made at a metropolitan racecourse and transmitted to a racecourse outside the metropolitan area; and
- (c) to make it an offence for a person to make or attempt to make an investment on a totalizator after the end of a race if the person knows that the race has already finished; and
- (d) to increase from 16 years to 18 years the age under which a person may not be detained as a result of a failure to pay a penalty imposed on the person for under age betting; and
- (e) to repeal certain provisions that are obsolete or redundant; and
- (f) to make other changes of a minor or consequential nature.

Clause 1 specifies the short title of the proposed Act.

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

Clause 3 provides for the Principal Act to be amended as provided by proposed Schedule 1.

Clause 4 saves existing appointments of inspectors under section 18 of the Principal Act.

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Schedule 1 (1) amends section 2 of the Principal Act (Definitions). Pony racing is to be no longer subject to the Act. References to that kind of racing are therefore being removed from the definitions of "Horse race", "Race-meeting" and "Racing club". A further amendment inserts in the section a definition of "Totalizator".

Schedule 1 (2) repeals section 3 of the Principal Act (Power of Minister to direct use of totalizator). The Minister will continue to have power to approve the establishment of a totalizator under section 3A and to impose terms and conditions with respect to the use of the totalizator.

Schedule 1 (3) and (4) remove from section 3A of the Principal Act (Power of Minister to approve use of totalizator) and section 4A of that Act (Days on which and races for which totalizators may be used) redundant references to an enclosure on a racecourse.

Schedule 1 (5) replaces section 7 of the Principal Act (Management of totalizator). As well as clarifying the words of the existing section, the proposed section will enable a racing club to engage a competent independent contractor to operate a totalizator on its behalf. The Minister will be empowered to require a racing club to terminate the engagement of such a contractor on certain specified grounds, including, for example, the ground that the contractor has been operating the totalizator in a dishonest manner.

Schedule 1 (6) amends section 8 of the Principal Act (Distribution of money invested on totalizators established and used at Sydney metropolitan racecourses) by providing expressly that the section applies to totalizators established and used at the Randwick, Canterbury, Rosehill, Warwick Farm and Wentworth Park Racecourses and the Harold Park Paceway and at any other racecourse specified by the regulations as being a racecourse to which the section applies. The section will also apply to superfecta totalizators established and used at all racecourses in New South Wales.

Schedule 1 (7) amends section 8A of the principal Act (Distribution of money invested on totalizators other than those to which section 8 applies). The amendments change the apportionment of money derived from bets placed at the Randwick, Canterbury, Rosehill and Warwick Farm Racecourses on galloping races held at racecourses to which section 8A of the Principal Act applies (essentially the country racecourses). The racing club at which those races are held will be able to retain a commission of either 6 per cent or 7 per cent depending on the kind of totalizator that is used. The Minister and the racing club at which the bets are placed will have their commissions reduced accordingly.

Schedule 1 (8) amends section 9C of the Principal Act (Determination of dividend) by omitting the reference to the now redundant minimum 25 cent unit of investment.

Schedule 1 (9) repeals section 10 of the Principal Act (Power of Minister to assume control of totalizator). The section is no longer needed because the Minister has sufficient powers under other sections of the Act to control the operation of totalizators.

Schedule 1 (10) amends section 11 of the Principal Act (Returns). At present, a racing club's return to the Minister has to be signed either by the club's secretary or by 2 members of the club's committee or executive body. The amendment will allow such a return to be signed by any other person designated by the club provided that the person is a person, or a person belonging to a class of persons, authorised by the Minister.

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Schedule 1 (11) replaces section 12 of the Principal Act (Offence for persons under 18 years of age to bet by means of totalizator). Because the design of most modern totalizator buildings does not allow for a sign, specifying the contents of the section, to be affixed over the door or opening in each totalillator machine at which money is received, subsection (1) of the existing section is being recast so that in future a person under 18 years of age may be convicted of the offence of making or attempting to make a bet by means of a totalizator if the racing club concerned has exhibited in a conspicuous place on the building at which it conducts totalizator betting a sign to the effect that betting on the totalizator by persons under 18 years of age is prohibited. The proposed section will also increase from 16 to 18 years of age the age under which a person may not be imprisoned or detained for not paying a fine after having been found guilty of engaging in totalizator betting while under 18 years of age.

Schedule 1 (12) repeals section 15 of the principal Act (Penalty on persons acting as totalizator agents). The section is now redundant.

Schedule 1 (13) replaces section 16 of the principal Act (officers of racing clubs not to accept instructions given by telephone etc. as to investments on a totalizator). The proposed section reformulates the offence created by the section and recognises changes in technology for transmitting messages by electronic means.

Schedule 1 (14) amends section 17 of the Principal Act (Members, officers etc. of racing club not to make investment on totalizator after start of race) by increasing the existing penalty to 20 penalty units (\$2,000).

Schedule 1 (15) inserts proposed section 17A which introduces a new offence of making or attempting to make an investment on a totalizator with respect to a race knowing that the race has already finished. The maximum penalty for an offence against the section will be 20 penalty units (\$2,000). If a person is convicted of such an offence, the the court will be empowered to order the person to pay an amount equal to the person's winnings on the race. If such an amount is recovered, it is to be paid into the Consolidated Fund.

Schedule 1 (16) (a) amends section 18 of the Principal Act (inspectors) so as to provide that in future inspectors will be appointed by the Minister rather than the Governor.

Schedule 1 (16) (b) and **(17)** amend sections 18 and 19 of the Principal Act. The amendments will empower inspectors to enter buildings on a racecourse that are associated with the operation of a totalizator located on the racecourse as well as the building in which the totalizator is actually housed and extend the effect of section 19 (Persons hindering inspectors in execution of their duty) by making it an offence for a person to hinder an inspector when exercising that power in relation to associated buildings.
