



Betting Tax Act 2018

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Queensland

Betting Tax Act 2018

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Betting Tax Act 2018

An Act to impose a tax on betting operators

Part 1 Preliminary

Division 1 Introduction

1 Short title

This Act may be cited as the *Betting Tax Act 2018*.

2 Commencement

This Act commences on 1 October 2018.

3 Extraterritorial application of Act

- (1) This Act applies both within and outside Queensland.
- (2) This Act applies outside Queensland to the full extent of the extraterritorial legislative power of the Parliament.

4 Relationship of Act with Taxation Administration Act 2001

- (1) This Act does not contain all the provisions about betting tax.
- (2) The *Taxation Administration Act 2001* contains provisions dealing with, among other things, the following—
 - (a) assessments of tax;
 - (b) payments and refunds of tax;
 - (c) imposition of interest and penalty tax;

- (d) objections and appeals against, or reviews of, assessments of tax;
- (e) record keeping obligations of taxpayers;
- (f) investigative powers, offences, legal proceedings and evidentiary matters;
- (g) service of documents.

Note—

Under the *Taxation Administration Act 2001*, section 3, that Act and this Act must be read together as if they together formed a single Act.

Division 2 Interpretation

5 Definitions

The dictionary in schedule 1 defines particular words used in this Act.

6 Meaning of *bet*

- (1) A *bet* includes—
 - (a) a free bet; and
 - (b) a lay-off bet; and
 - (c) a wager.
- (2) However, a *bet* does not include—
 - (a) a game conducted under a gaming Act; or
 - (b) a relevant interstate game; or
 - (c) another game, similar to a game mentioned in paragraph (a) or (b), that is prescribed by regulation.
- (3) In this section—

gaming Act means any of the following Acts—

 - (a) the *Casino Control Act 1982*;

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- (b) the *Charitable and Non-Profit Gaming Act 1999*;
 - (c) the *Gaming Machine Act 1991*;
 - (d) the *Keno Act 1996*;
 - (e) the *Lotteries Act 1997*.

relevant interstate game means any of the following games conducted by a person under a licence or other authority under a law of another State or the Commonwealth—

- (a) a lottery or the supply of lottery tickets;
- (b) a game commonly known as keno;
- (c) a game commonly known as bingo, a Calcutta sweep, lucky envelopes, two-up or an art union;
- (d) a promotional game or trade promotion lottery.

7 Meaning of *free bet*

A ***free bet*** is a bet made wholly or partly using an amount (a ***free component***) that—

- (a) is provided to the person making the bet by the betting operator with whom the bet is made; and

Examples of an amount for paragraph (a)—

- an amount provided for making a bet
 - an amount representing a bonus on a previous winning bet
 - an amount representing a refund of all or part of the staked amount for a previous non-winning bet
- (b) is not immediately redeemable by the person for cash.

8 Meaning of *lay-off bet*

A ***lay-off bet*** is 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.

9 Meaning of *betting exchange bet*

A bet is a *betting exchange bet* to the extent it is made using a betting exchange.

10 Meaning of *general bet*

A bet is a *general bet* to the extent it is made other than using a betting exchange or a totalisator.

11 Meaning of *totalisator bet*

A bet is a *totalisator bet* to the extent it is made using a totalisator.

12 Meaning of *betting operator*

A *betting operator* is a person who—

- (a) is authorised, under a licence or other authority under a law of this State, another State or the Commonwealth, to conduct betting operations from a place in Australia; or
- (b) under a law of this State, another State or the Commonwealth, is exempt from the authorisation requirements that would otherwise apply for conducting betting operations from a place in Australia.

13 Meaning of *betting operations*

A person conducts *betting operations* if the person, whether in person or through an agent or a telecommunication device—

- (a) receives bets; or
- (b) pays, negotiates or settles bets; or
- (c) operates a betting exchange.

14 Meaning of *relevant betting operator*

A *relevant betting operator* is a betting operator who—

- (a) is registered as a betting operator under part 3; or
- (b) is required under section 44 to apply for registration as a betting operator under part 3.

15 Meaning of *change of status*

A person who is a relevant betting operator has a *change of status* if, during a financial year—

- (a) the person—
 - (i) ceases to be authorised under a licence or other authority mentioned in section 12(a); or
 - (ii) ceases to be exempt from the authorisation requirements mentioned in section 12(b); or
- (b) the person ceases to conduct betting operations and does not intend to resume conducting betting operations for the remainder of the financial year or in the next financial year; or
- (c) an administrator is appointed for the person, other than on 1 July in the financial year; or
- (d) the appointment of an administrator for the person ceases to have effect.

16 Meaning of *final period*

The *final period*, in relation to a person who has a change of status during a financial year, is the period—

- (a) starting on 1 July in the financial year; and
- (b) ending on the following day (each the *end day* for the final period)—
 - (i) for a change of status mentioned in section 15(a)(i) or (ii)—the day the person ceases to be authorised or exempt from the authorisation requirements;

- (ii) for a change of status mentioned in section 15(b)—the day the person ceases to conduct betting operations;
- (iii) for a change of status mentioned in section 15(c)—the day before the administrator is appointed;
- (iv) for a change of status mentioned in section 15(d)—the day the appointment of the administrator ceases to have effect.

Examples—

- 1 The licence under which a relevant betting operator is authorised to conduct betting operations ends on 31 March 2020. The final period in relation to the betting operator's change of status is the period starting on 1 July 2019 and ending on 31 March 2020.
- 2 A receiver is appointed for the property of a relevant betting operator on 1 October 2019. The receiver's appointment ceases to have effect on 1 December 2019. The final period in relation to the betting operator's first change of status is the period starting on 1 July 2019 and ending on 30 September 2019. The final period in relation to the betting operator's second change of status is the period starting on 1 July 2019 and ending on 1 December 2019.

17 References to bet made with, or received by, betting operator

- (1) A reference in this Act to a bet made with, or received by, a betting operator includes a reference to a bet made with the betting operator through an agent or a telecommunication device.
- (2) Also, a reference in this Act to a bet made with, or received by, a betting operator includes, for a betting operator who operates a betting exchange, a reference to a bet made through the betting operator using the betting exchange.

18 References to month

Despite section 50(4), a reference in this Act, other than section 50(1), to a month in relation to a betting operator is taken to include a reference to the last month of a financial year for the betting operator.

Part 2 Liability for betting tax

Division 1 Imposition of liability

19 Imposition of betting tax on taxable wagering revenue

This Act imposes betting tax on the taxable wagering revenue of betting operators for particular periods at the taxing rate.

20 When liability for betting tax arises

A liability for betting tax imposed on the taxable wagering revenue of a betting operator for a period arises on the return date for lodgement by the betting operator of a return for the period.

21 Betting operator to pay betting tax

Betting tax must be paid by the betting operator on whose taxable wagering revenue the tax is imposed.

Division 2 Taxable wagering revenue

Subdivision 1 Location of persons making bets

22 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.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 60, to have also committed the offence.

- (2) For complying with subsection (1), a betting operator may rely on either of the following addresses 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 company within the meaning of the Corporations Act—an address given to the betting operator by or for the company as the company’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 mentioned in subsection (2)(a) or (b) is not the location of the person when the bet is made.

Examples of circumstances in which subsection (2) will not apply for a particular bet—

- 1 A betting operator holds a licence authorising the betting operator to receive face-to-face bets from persons at a place in Queensland. An account-holding customer of the betting operator has previously given an address outside Queensland as the customer’s residential address. The betting operator receives a face-to-face bet from the customer at a place in Queensland.
- 2 A person making a bet with a betting operator by telephone has previously given the betting operator an address outside Queensland as the person’s residential address. When making the further bet, the person tells the betting operator the person is in Queensland.

Subdivision 2 Working out taxable wagering revenue

23 References to Queensland bet

- (1) A reference in this subdivision to a Queensland bet, or a Queensland 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 Queensland when the bet is made.

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- (2) To remove any doubt, it is declared that a lay-off bet made by a betting operator who is located in Queensland when it is made is a Queensland bet, whether or not the liability the betting operator seeks to reduce by making the lay-off bet relates to Queensland bets made with the betting operator.

24 Meaning of *taxable wagering revenue*

- (1) The *taxable wagering revenue*, of a betting operator, for a period, is the total wagering revenue of the betting operator for the period less the total eligible payments of the betting operator for the period.
- (2) For subsection (1), the *total wagering revenue*, of a betting operator, for a period, is the total of—
- (a) for Queensland totalisator bets made with the betting operator—the amount worked out under section 26(1) for the period; and
 - (b) for Queensland betting exchange bets made with the betting operator—the amount worked out under section 27 for the period; and
 - (c) for Queensland general bets made with the betting operator—the amount worked out under section 28(1) for the period; and
 - (d) any amounts the betting operator became entitled to retain during the period on account of unclaimed winnings in relation to Queensland bets; and
 - (e) any other amounts the betting operator became entitled to receive during the period as consideration for, or in relation to, Queensland bets made with the betting operator.
- (3) For subsection (1), the *total eligible payments*, of a betting operator, for a period, are the total of—
- (a) for Queensland totalisator bets made with the betting operator—the amount worked out under section 26(2) for the period; and

- (b) for Queensland general bets made with the betting operator—the amount worked out under section 28(3) for the period; and
- (c) another amount that is prescribed by regulation for Queensland bets generally or for a Queensland bet of a particular type.

25 Particular payments excluded in working out total eligible payments

- (1) In working out an amount mentioned in section 24(3)(a), (b) or (c), the betting operator is not entitled to take any of the following into account—

- (a) the provision or granting by the betting operator of any non-cash reward, however described;

Examples—

- the provision of frequent flyer points
- the granting of an entitlement to make free bets

- (b) the payment of an amount to a person other than a person who made a bet with the betting operator (a ***third party***);

Example—

a payment to a third party for costs of the betting operator associated with conducting its betting operations

- (c) the payment of an amount that—
 - (i) is made at the discretion of the betting operator; or
 - (ii) results in a person who made a bet with the betting operator receiving an amount that is more than the amount the person is legally entitled to receive under the terms on which the bet was made with the betting operator;

Examples—

- the refund of a staked amount if the betting operator does not have a legal obligation to make the refund

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- the payment of an amount as winnings in relation to a bet if the outcome of the event or contingency on which the bet was made did not happen and the betting operator does not have a legal obligation to make the payment
- (d) the payment of an amount as part of an arrangement—
- (i) under which the betting operator offers an opportunity for persons (*participants*) to win, at no or a nominal cost to the participants, an amount by betting on the outcome of a stated event or contingency or a stated series of events or contingencies; and
 - (ii) under which the total of all amounts payable by the betting operator in relation to bets made by participants may reasonably be expected to exceed the total of any amounts received by the betting operator for bets made under the arrangement; and
 - (iii) for which the betting operator's primary purpose is to attract or encourage participants to bet with the betting operator, or to promote its betting operations to participants, beyond the particular arrangement.

Example of the payment of an amount excluded under paragraph (d)—

A betting operator offers persons who register with it as customers an opportunity to bet, at no cost to the customers, on the outcome of a stated series of events. Under the terms of the arrangement, the betting operator is liable to pay \$50,000 in total to the customers who correctly predict the outcome of the series. The betting operator's primary purpose in the arrangement is to encourage persons to open or maintain betting accounts with the betting operator.

Examples of the payment of amounts not excluded under paragraph (d)—

- 1 A betting operator provides a person with an amount to be used, at the person's discretion, in making a bet with the betting operator. The person uses the amount to make a free bet with the betting operator and wins. The betting operator pays the person an amount as winnings in relation to the bet, exclusive of the free component of the bet.

- 2 A betting operator receives a cash bet from a person with the genuine expectation the person may lose the bet. The person wins the bet and the betting operator pays the person an amount as winnings in relation to the bet, including the staked amount.
- (2) A reference in subsection (1)(b) to the payment of an amount to a third party does not include a reference to the payment of an amount to a third party that discharges, wholly or partly, a legal obligation of the betting operator to pay an amount in relation to a Queensland bet to the person who made the bet with the betting operator.
- (3) Subsection (1)(b) is subject to section 26(2)(a).

26 Amounts for totalisator bets

- (1) For section 24(2)(a), the amount is the total of all Queensland revenue from totalisator pools that the betting operator received during the period.
- (2) For section 24(3)(a), the amount is the total of—
 - (a) any amounts paid by the betting operator during the period into a totalisator pool on account of the free component of any Queensland totalisator bets made with the betting operator in the pool; and
 - (b) any amounts paid by the betting operator during the period, as an additional dividend to the dividend payable out of a totalisator pool, to a person who made a Queensland totalisator bet with the betting operator.
- (3) In this section—

Queensland revenue, from a totalisator pool, for a betting operator, means the amount worked out using the formula—

$$QR = \left(1 - \frac{TD}{TB}\right) \times QB$$

where—

QB means the total amount of the Queensland totalisator bets made with the betting operator in the totalisator pool, net of any refunds.

QR means the Queensland revenue from the totalisator pool for the betting operator.

TB means the total amount of totalisator bets in the totalisator pool, net of any refunds.

TD means the total amount of dividends paid or payable out of the totalisator pool.

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

27 Amount for betting exchange bets

For section 24(2)(b), the amount is the total amount of all commission the betting operator received during the period in relation to Queensland betting exchange bets made with the betting operator.

28 Amounts for general bets

- (1) For section 24(2)(c), the amount is the total amount of all Queensland general bets made with the betting operator during the period.
- (2) For subsection (1), the amount of a general bet does not include any free component of the bet.
- (3) For section 24(3)(b), the amount is the total of all amounts paid by the betting operator during the period in relation to Queensland general bets made with the betting operator.

29 Amount of bet generally

- (1) If all or part of a bet is made other than in cash, the amount of the bet includes the monetary value of the non-cash consideration comprising the bet when the bet is made.

Examples of consideration that may comprise all or part of a bet—

- the amount or value of a debt to the extent it is released or extinguished by the bet
 - the amount of any liabilities assumed under the bet, including an obligation, whether contingent or otherwise, to pay any unpaid money
 - digital currency within the meaning of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cwlth)
- (2) Subsection (1) is subject to section 28(2).
- (3) The amount of a bet, to the extent it is stated in a foreign currency, is taken to be the amount expressed in Australian dollars according to the rate of exchange that applies in Queensland on—
- (a) the day the bet is made; or
 - (b) if the rate is not obtainable for Queensland on that day—the last day before the day the bet is made on which the rate was obtainable for Queensland.

Division 3 Monthly liability

30 Application of division

This division applies to a betting operator who is required under section 50 to lodge a monthly return for a month.

31 Definition for division

In this division—

qualifying month, in relation to a financial year, for a betting operator, means the first month of the financial year in which the taxable 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 the annual threshold amount.

32 Amount of monthly liability generally

- (1) The betting operator's liability (*monthly liability*) for betting tax for the month is the amount that applies under subsection (2), (3) or (4) for the month.
- (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 the amount worked out by applying the taxing rate to the difference between—
 - (a) the taxable 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) the annual threshold amount.
- (4) For any month of a financial year after the qualifying month, the amount is—
 - (a) if the taxable wagering revenue of the betting operator for the month is nil or a negative amount—nil; or
 - (b) otherwise—the amount worked out by applying the taxing rate to the taxable wagering revenue of the betting operator for the month.
- (5) Subsections (3) and (4) are subject to section 33.

33 Amount of monthly liability for particular months

- (1) This section applies for each of the following months if a final period for the betting operator ends during the month—
 - (a) the qualifying month of a financial year, if the taxable wagering revenue of the betting operator for the final period is more than the annual threshold amount;
 - (b) any month of a financial year after the qualifying month.
- (2) The betting operator's liability (*monthly liability*) for betting tax for the month is—
 - (a) if the end day for the final period is the last day of the month—nil; or

- (b) if paragraph (a) does not apply—
 - (i) if the taxable wagering revenue of the betting operator for the reduced period is nil or a negative amount—nil; or
 - (ii) otherwise—the amount worked out by applying the taxing rate to the taxable wagering revenue of the betting operator for the reduced period.
- (3) In this section—

reduced period, in relation to a month during which a final period for a betting operator ends, means the period—

 - (a) starting on the day after the end day for the final period; and
 - (b) ending on the last day of the month.

Division 4 Annual liability

34 Application of division

This division applies to a betting operator who is required under section 53 to lodge an annual return for a financial year.

35 Definitions for division

In this division—

annual betting tax amount, for a betting operator, for a financial year, means—

- (a) if the taxable wagering revenue of the betting operator for the financial year is equal to or less than the annual threshold amount—nil; or
- (b) otherwise—the amount worked out by applying the taxing rate to the amount by which the taxable wagering revenue of the betting operator for the financial year is more than the annual threshold amount.

relevant liability, of a betting operator, for a financial year, means each of the following—

- (a) the betting operator's monthly liability for any month of the financial year for which the betting operator was required under section 50 to lodge a monthly return;
- (b) the betting operator's final liability for any final period during the financial year for which the betting operator was required under section 54 to lodge a final return.

36 Amount of annual liability

The betting operator's liability (*annual liability*) for betting tax for the financial year is—

- (a) if the betting operator does not have any relevant liabilities for the financial year—the annual betting tax amount for the betting operator for the financial year; or
- (b) if the total amount of the relevant liabilities of the betting operator for the financial year is equal to or more than the annual betting tax amount for the betting operator for the financial year—nil; or
- (c) if paragraphs (a) and (b) do not apply, the difference between—
 - (i) the annual betting tax amount for the betting operator for the financial year; and
 - (ii) the total amount of the relevant liabilities of the betting operator for the financial year.

37 Entitlement to annual refund amount

- (1) This section applies if the total amount of the relevant liabilities of the betting operator for the financial year is more than the annual betting tax amount for the betting operator for the financial year.
- (2) The betting operator is entitled to a refund of the amount (the *annual refund amount*) of the difference between—

[s 38]

- (a) the total amount of the relevant liabilities of the betting operator for the financial year; and
 - (b) the annual betting tax amount for the betting operator for the financial year.
- (3) However, the betting operator is not entitled to a refund under subsection (2) more than 5 years after the assessment of the betting operator's annual liability for the financial year is made.
- (4) Subsection (2) is subject to section 56.
- (5) This section does not apply in relation to a reassessment of the betting operator's annual liability for the financial year.

Note—

See the *Taxation Administration Act 2001*, part 4, division 2 in relation to entitlement to refunds on reassessments.

- (6) This section applies despite the *Taxation Administration Act 2001*, section 36.

Division 5 Final liability

38 Application of division

This division applies to a betting operator who is required under section 54 to lodge a final return for a final period.

39 Definitions for division

In this division—

adjusted betting tax amount, for a betting operator, for a final period, means—

- (a) if the taxable wagering revenue of the betting operator for the final period is equal to or less than the annual threshold amount—nil; or
- (b) otherwise—the amount worked out by applying the taxing rate to the amount by which the taxable wagering

revenue of the betting operator for the final period is more than the annual threshold amount.

previous liability, of a betting operator, for a final period, means each of the following—

- (a) the betting operator's monthly liability for any month during the final period for which the betting operator was required under section 50 to lodge a monthly return;
- (b) the betting operator's final liability for any previous final period for which the betting operator was required under section 54 to lodge a final return.

40 Amount of final liability

The betting operator's liability (*final liability*) for betting tax for the final period is—

- (a) if the betting operator does not have any previous liabilities for the final period—the adjusted betting tax amount for the betting operator for the final period; or
- (b) if the total amount of the previous liabilities of the betting operator for the final period is equal to or more than the adjusted betting tax amount for the betting operator for the final period—nil; or
- (c) if paragraphs (a) and (b) do not apply, the difference between—
 - (i) the adjusted betting tax amount for the betting operator for the final period; and
 - (ii) the total amount of the previous liabilities of the betting operator for the final period.

41 Entitlement to final refund amount

- (1) This section applies if the total amount of the previous liabilities of the betting operator for the final period is more than the adjusted betting tax amount for the betting operator for the final period.

- (2) The betting operator is entitled to a refund of the amount (the ***final refund amount***) of the difference between—
 - (a) the total amount of the previous liabilities of the betting operator for the final period; and
 - (b) the adjusted betting tax amount for the betting operator for the final period.
- (3) However, the betting operator is not entitled to a refund under subsection (2) more than 5 years after the assessment of the betting operator's final liability for the final period is made.
- (4) Subsection (2) is subject to section 56.
- (5) This section does not apply in relation to a reassessment of the betting operator's final liability for the final period.

Note—

See the *Taxation Administration Act 2001*, part 4, division 2 in relation to entitlement to refunds on reassessments.

- (6) This section applies despite the *Taxation Administration Act 2001*, section 36.

Division 6 Avoidance of betting tax

42 Arrangements for avoidance may be disregarded

- (1) This section applies 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 betting tax.
- (2) The commissioner may—
 - (a) disregard the agreement, transaction or arrangement for 1 or more periods; and
 - (b) decide 1 or more of the matters mentioned in subsection (3).
- (3) The matters are the following—

- (a) that the total wagering revenue of a betting operator for a particular period is to be taken to include an additional amount;
 - (b) that an amount included in the total eligible payments of a betting operator for a particular period is to be disregarded;
 - (c) that, because of a decision made under paragraph (a) or (b), the taxable wagering revenue of a betting operator for a particular period is to be taken to include an additional amount;
 - (d) 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 Queensland bet within the meaning of division 2, subdivision 2 for working out the taxable wagering revenue of the betting operator for a particular period;
 - (e) 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 taxable wagering revenue of the party for a particular period.
- (4) If the commissioner makes a decision under subsection (3) about a betting operator or another party to the agreement, transaction or arrangement, the commissioner must give the betting operator or party a notice that states the decision and the reasons for the decision.

43 Avoiding taxation

A person who, by any act or omission, avoids or attempts to avoid betting tax imposed under this Act commits an offence.

Maximum penalty—20 penalty units and treble the amount of betting tax avoided or attempted to be avoided.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 60, to have also committed the offence.

Part 3 Registration

44 Application for registration

- (1) This section applies to a betting operator if—
 - (a) the betting operator is not already registered under this part as a betting operator; and
 - (b) for any month of a financial year, the taxable 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 the annual threshold amount.
- (2) The betting operator must, within 7 days after the end of the month, give the commissioner an application, in the approved form, for registration as a betting operator under this part.

Maximum penalty—100 penalty units.

Note—

If a corporation commits an offence against this provision, an executive officer of the corporation may be taken, under section 60, to have also committed the offence.

45 Registration of betting operator

- (1) If a betting operator applies under section 44 for registration as a betting operator, the commissioner must register the betting operator.
- (2) If a betting operator mentioned in section 44(1) does not apply for registration as a betting operator in compliance with section 44(2), the commissioner may register the betting operator.

46 Notice of registration

- (1) The 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 part; 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 2001*.

Examples—

- the betting operator's client number
- records required to be kept under the *Taxation Administration Act 2001* relating to the betting operator's liability under this Act

47 Amendment of registration

- (1) The commissioner may amend a betting operator's registration by notice given to the betting operator.
- (2) The notice must state the particulars of the betting operator's registration that are amended and the way they are amended.

48 Cancellation of registration

- (1) The 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 part 4; and
 - (c) paid the person's monthly liability, annual liability and final liability in relation to those returns.
- (2) As soon as practicable after cancelling a person's registration under subsection (1), the commissioner must give the person a notice stating—
 - (a) that the person's registration has been cancelled; and
 - (b) the day the registration was cancelled.

Part 4 Returns

Division 1 Monthly returns

49 Application of division

This division applies to a betting operator who, for all or part of a month, is a relevant betting operator.

50 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***) for the taxable wagering revenue of the betting operator for the month.

Note—

Failure to lodge a monthly return is an offence against the *Taxation Administration Act 2001*, section 121.

- (2) The monthly return must—

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- (a) be in the approved form; and
 - (b) state the betting operator's monthly liability for the month.
- (3) Subsection (1) applies even if the betting operator's monthly liability for the month is nil.
 - (4) However, subsection (1) does not apply for the last month of a financial year.
 - (5) If the commissioner considers it would be unduly onerous to require the betting operator to lodge monthly returns within the period mentioned in subsection (1), the commissioner may, by notice given to the betting operator, extend the period within which the betting operator is required to lodge 1 or more monthly returns.
 - (6) The commissioner may at any time, by notice given to the betting operator, revoke a notice given under subsection (5).
 - (7) This section is subject to sections 51 and 52.

Note—

The lodgement of an annual return or final return by the betting operator does not, of itself, affect the betting operator's obligation to lodge a monthly return.

51 Exemption from lodgement requirement—betting operators conducting on-course bookmaking

- (1) This section applies if—
 - (a) the betting operator's primary betting operations are on-course bookmaking; and
 - (b) the betting operator has not previously given the commissioner a notice under subsection (4).
- (2) The betting operator is exempt from the requirement to lodge monthly returns under section 50.
- (3) However, the exemption does not exempt the betting operator from the obligation to pay betting tax, even though it may have the effect of postponing the time for payment of betting tax.

- (4) Despite subsection (2), the betting operator may, by notice given to the commissioner, relinquish the betting operator's exemption under subsection (2) if, on the day the notice is given—
- (a) the taxable wagering revenue of the betting operator for the previous relevant period is more than the annual threshold amount; or
 - (b) the betting operator expects the taxable wagering revenue of the betting operator for the financial year in which the notice is given to be more than the annual threshold amount.

- (5) If the betting operator gives a notice under subsection (4)—
- (a) section 50 is taken to apply to the betting operator for the month (the *relevant month*) immediately after the month in which the notice is given and for each succeeding month; and

Example—

The betting operator gives a notice under subsection (4) on 7 March 2019. Section 50 applies to the betting operator for April 2019 and for each succeeding month. The betting operator must lodge a monthly return for April 2019 by 21 May 2019.

- (b) for sections 32 and 33, the relevant month is taken to be the qualifying month of the financial year for the betting operator.
- (6) However, subsection (5)(b) does not apply if the taxable wagering revenue of the betting operator for the period starting on 1 July in the financial year in which the notice is given and ending on the last day of the relevant month is equal to or less than the annual threshold amount.

- (7) Subsections (4) and (5) do not limit section 52.

- (8) In this section—

on-course bookmaking means the business of receiving, paying, negotiating or settling bets for thoroughbred, harness or greyhound racing, at a venue at which the racing is conducted, under a licence or other authority under a law of this State or another State.

Example—

bookmaking conducted under a racing bookmaker's licence under the *Racing Integrity Act 2016* at a licensed venue within the meaning of that Act

previous relevant period, in relation to a notice given under subsection (4), means the period—

- (a) starting on 1 July in the financial year in which the notice is given; and
- (b) ending on the last day of the month immediately before the month in which the notice is given.

52 Exemption from lodgement requirement—betting operators generally

- (1) This section applies if the commissioner considers it would be unduly onerous to require the betting operator to lodge monthly returns.
- (2) The commissioner may, by notice given to the betting operator, exempt the betting operator from the requirement to lodge monthly returns under section 50.
- (3) The betting operator is not required to lodge monthly returns while the notice is in effect.
- (4) However, the giving of the notice does not exempt the betting operator from the obligation to pay betting tax, even though it may have the effect of postponing the time for payment of betting tax.
- (5) The commissioner may at any time, by notice given to the betting operator, revoke a notice given under subsection (2).

Division 2 Other returns

53 Requirement to lodge annual return

- (1) This section applies to a betting operator who, on 30 June in a financial year, is a relevant betting operator.

- (2) The betting operator must, not later than 21 days after the end of the financial year, lodge a return (an *annual return*) for the taxable wagering revenue of the betting operator for the financial year.

Note—

Failure to lodge an annual return is an offence against the *Taxation Administration Act 2001*, section 121.

- (3) The annual return must—
- (a) be in the approved form; and
 - (b) state the betting operator’s annual liability, and any annual refund amount, for the financial year.
- (4) Subsection (2) applies—
- (a) whether or not the betting operator was required to lodge monthly returns during the financial year; and
 - (b) even if the betting operator’s annual liability for the financial year is nil.
- (5) However, subsection (2) does not apply if the betting operator—
- (a) lodged, or was required under section 54 to lodge, a final return during the financial year; and
 - (b) did not conduct betting operations during the financial year after the end day for the final period for which the final return was lodged or required to be lodged.

Note—

The lodgement of a final return by the betting operator does not, of itself, affect the betting operator’s obligation to lodge an annual return.

54 Requirement to lodge final return

- (1) This section applies to a betting operator who—
- (a) is a relevant betting operator; and
 - (b) has a change of status during a financial year.

- (2) The betting operator must, not later than 21 days after the end day for the final period to which the change of status relates, lodge a return (a *final return*) for the taxable wagering revenue of the betting operator for the final period.

Note—

Failure to lodge a final return is an offence against the *Taxation Administration Act 2001*, section 121.

- (3) The final return must—
 - (a) be in the approved form; and
 - (b) state the betting operator's final liability, and any final refund amount, for the final period.
- (4) Subsection (2) applies even if the betting operator's final liability for the final period is nil.

55 Requirement to lodge further return

- (1) This section applies in relation to—
 - (a) a betting operator who is a relevant betting operator; or
 - (b) another person.
- (2) The commissioner may, by notice given to the betting operator or other person, require the betting operator or other person to lodge, within the period stated in the notice, a return or a further or fuller return, whether on the betting operator's or person's own account or as an agent or trustee.
- (3) The betting operator or other person must, within the period stated in the notice, lodge the return or the further or fuller return required under the notice.

Note—

Failure to lodge a return required under this section is an offence against the *Taxation Administration Act 2001*, section 121.

Part 5 Refunds

56 Application of particular refund amounts

(1) This section applies if, on an original assessment of a betting operator's annual liability or final liability, the betting operator is entitled to either of the following (each a *relevant refund amount*)—

- (a) an annual refund amount;
- (b) a final refund amount.

Note—

See the *Taxation Administration Act 2001*, part 4, division 2 in relation to entitlement to refunds on reassessments.

(2) The commissioner may apply the whole or part of the relevant refund amount as payment for—

- (a) a tax law liability of the betting operator; or
- (b) a tax law liability that the commissioner reasonably believes will become payable by the betting operator within 60 days after the entitlement to the amount arises.

(3) If the commissioner does not apply the whole or part of the relevant refund amount as payment for a liability mentioned in subsection (2) within 60 days after the entitlement to the amount arises, the commissioner must immediately refund to the betting operator the amount not applied.

(4) This section applies despite the *Taxation Administration Act 2001*, section 36.

(5) The *Taxation Administration Act 2001*, section 39 applies to a refund of an amount to the betting operator, or an application of an amount as payment for the betting operator, under this section.

(6) In this section—

original assessment see the *Taxation Administration Act 2001*, schedule 2.

reasonably believes means believes on grounds that are reasonable in the circumstances.

tax law liability see the *Taxation Administration Act 2001*, schedule 2.

57 Entitlement to refund of betting tax

A betting operator is not entitled to a refund of an amount of betting tax paid, or purportedly paid, under this Act by the betting operator other than under—

- (a) section 37, 41 or 56; or
- (b) the *Taxation Administration Act 2001*, part 4, division 2.

Part 6 Particular assessments and reassessments by commissioner

58 Commissioner may disregard particular liabilities in assessing or reassessing annual liability or final liability

- (1) In making an assessment or reassessment of a betting operator's annual liability for a financial year, the commissioner may treat the betting operator as if the betting operator—
 - (a) had not been required under section 50 to lodge any monthly returns during all or part of the financial year; or
 - (b) had not been required under section 54 to lodge any final returns during all or part of the financial year.
- (2) In making an assessment or reassessment of a betting operator's final liability for a final period during a financial year, the commissioner may treat the betting operator as if the betting operator—

[s 58]

- (a) had not been required under section 50 to lodge any monthly returns during all or part of the final period; or
 - (b) had not been required under section 54 to lodge any final returns for any previous final periods during the final period.
- (3) If, under subsection (1) or (2), the commissioner treats the betting operator as if the betting operator had not been required to lodge a monthly return for 1 or more months (each a **relevant month**), or a final return for 1 or more final periods (each a **relevant final period**), during the financial year or the final period—
- (a) the betting operator must be treated for this Act and the *Taxation Administration Act 2001* as if the betting operator—
 - (i) did not have a monthly liability, and had not been required to lodge a monthly return, for each relevant month; or
 - (ii) did not have a final liability, and had not been required to lodge a final return, for each relevant final period; and
 - (b) any assessment of the betting operator's monthly liability for a relevant month, or final liability for a relevant final period, is taken not to have been made; and
 - (c) the commissioner may apply as payment for a relevant betting tax liability of the betting operator, in the order required under the *Taxation Administration Act 2001*, section 42, either or both of the following amounts—
 - (i) the whole or part of an amount paid, or that would apart from paragraph (a)(i) be payable, by the betting operator for monthly liability for a relevant month;
 - (ii) the whole or part of an amount paid, or that would apart from paragraph (a)(ii) be payable, by the betting operator for final liability for a relevant final period; and

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- (d) the commissioner is not prevented from making a subsequent reassessment of the betting operator's monthly liability, final liability or annual liability under section 59.
- (4) For this section, the circumstances in which a betting operator was required under section 50 to lodge a monthly return, or was required under section 54 to lodge a final return, during all or part of a financial year or during a final period include the commissioner exercising power under section 59(2) for the month or final period to which the return relates.
- (5) In this section—
- relevant betting tax liability*** means a liability for any of the following—
- (a) betting tax;
 - (b) unpaid tax interest in relation to an assessment of liability for betting tax;
 - (c) penalty tax in relation to an assessment of liability for betting tax;
 - (d) any other amount payable under this Act or the *Taxation Administration Act 2001*, or a liability to pay costs ordered by a court or QCAT, in relation to betting tax.

unpaid tax interest see the *Taxation Administration Act 2001*, schedule 2.

59 Commissioner may assess or reassess particular liabilities as if monthly returns or final returns required to be lodged

- (1) This section applies if—
- (a) under section 52, a betting operator was exempt from lodging monthly returns during either or both of the following periods (each the ***exemption period***)—
 - (i) all or part of a financial year;
 - (ii) all or part of a final period; or

- (b) in making an assessment or reassessment under section 58(1) or (2), the commissioner has treated a betting operator as if the betting operator was not required to lodge monthly returns or final returns during a period mentioned in section 58(1) or (2) (also the *exemption period*).
- (2) In making an assessment or reassessment of a relevant liability of the betting operator, the commissioner may do 1 or more of the following—
 - (a) despite section 52, treat the betting operator as if the betting operator had been required under section 50 to lodge a monthly return for 1 or more months during the exemption period;
 - (b) despite any previous treatment of the betting operator under section 58(1) or (2), treat the betting operator as if the betting operator had been required to lodge a monthly return for 1 or more months during the exemption period;
 - (c) despite any previous treatment of the betting operator under section 58(1) or (2), treat the betting operator as if the betting operator had been required to lodge a final return for 1 or more final periods during the exemption period.
- (3) The commissioner may make an assessment or reassessment under subsection (2)(a) only if—
 - (a) the betting operator gave the commissioner false or misleading information in contravention of the *Taxation Administration Act 2001*, section 122 or 123; and
 - (b) the commissioner relied on the information in granting the exemption under section 52.
- (4) If the commissioner makes an assessment or reassessment under subsection (2)—
 - (a) the betting operator must be treated for this Act and the *Taxation Administration Act 2001*, other than the *Taxation Administration Act 2001*, section 121, as if the betting operator—

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- (i) had been required under section 50 to lodge, on the return date, a monthly return for each month for which the betting operator's monthly liability is assessed or reassessed under subsection (2); or
 - (ii) had been required under section 54 to lodge, on the return date, a final return for each final period for which the betting operator's final liability is assessed or reassessed under subsection (2); and
- (b) the commissioner is not prevented from making a subsequent reassessment of the betting operator's annual liability or final liability under section 58.
- (5) In this section—
- relevant liability*, of a betting operator, means—
- (a) the betting operator's monthly liability for a month during the exemption period; or
 - (b) the betting operator's final liability for a final period during the exemption period; or
 - (c) the betting operator's annual liability for the financial year in which the exemption period falls.

Part 7 Other matters

60 Executive officer may be taken to have committed offence against deemed executive liability provision

- (1) If a corporation commits an offence against a deemed executive liability provision, each executive officer of the corporation is taken to have also committed the offence if—
- (a) the officer authorised or permitted the corporation's conduct constituting the offence; or
 - (b) the officer was, directly or indirectly, knowingly concerned in the corporation's conduct constituting the offence.

- (2) The executive officer may be proceeded against for, and convicted of, the offence against the deemed executive liability provision whether or not the corporation has been proceeded against for, or convicted of, the offence.
- (3) This section does not affect either of the following—
 - (a) the liability of the corporation for the offence against the deemed executive liability provision;
 - (b) the liability, under the Criminal Code, chapter 2, of any person, whether or not the person is an executive officer of the corporation, for the offence against the deemed executive liability provision.
- (4) In this section—

deemed executive liability provision means each of the following provisions—

 - section 22(1)
 - section 43
 - section 44(2).

61 Administrator must give commissioner notice

- (1) This section applies to a person who is appointed as an administrator for a relevant betting operator.
- (2) The person must, within 14 days after being appointed, give the commissioner notice of the person's appointment.

Maximum penalty—40 penalty units.
- (3) The *Taxation Administration Act 2001*, section 48 does not apply to the person.

62 Notice of change of address for service

- (1) A betting operator who is registered as a betting operator under part 3 must give the commissioner notice of each change of the betting operator's address for service within 1 month after the change.

Note—

Failure to give the notice is an offence against the *Taxation Administration Act 2001*, section 120.

(2) In this section—

address for service, in relation to a betting operator, means—

- (a) if the betting operator has given the commissioner a notice under this section after lodging the betting operator's last return—the address stated in the last notice given; or
- (b) otherwise—the address shown as the betting operator's address for service in the last return lodged by the betting operator.

63 Cents to be disregarded for particular calculations

(1) This section applies if—

- (a) for this Act, it is necessary to—
 - (i) calculate the proportion that 1 amount bears to another amount; or
 - (ii) calculate an amount using a formula; and
- (b) 1 or more of the amounts mentioned in paragraph (a), or an amount included in a formula, would, if subsection (2) did not apply, be amounts of dollars and cents.

(2) The cents must be disregarded.

64 Approved forms

The commissioner may approve forms for use under this Act.

65 Regulation-making power

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may—

- (a) provide for the way of making an application to the commissioner under this Act; and
- (b) provide that a return, application, notice, statement or form signed for a betting operator is taken to have been signed by the betting operator; and
- (c) provide for a maximum penalty of not more than 20 penalty units for a contravention of the regulation.

Part 8 Transitional provisions

66 Definition for part

In this part—

transitional period means the period—

- (a) starting on 1 October 2018; and
- (b) ending on 30 June 2019.

67 Particular references to financial year

This Act applies in relation to the transitional period as if—

- (a) a reference in a provision of this Act, other than this section, to a financial year were a reference to the transitional period; and
- (b) a reference in a provision of this Act, other than this section, to 1 July in a financial year were a reference to 1 October 2018.

68 Annual threshold amount

This Act applies in relation to the transitional period as if the annual threshold amount were \$225,000.

Schedule 1 Dictionary

section 5

adjusted betting tax amount, for a betting operator, for a final period, for part 2, division 5, see section 39.

administrator, for a person, means—

- (a) a receiver, or receiver and manager, of the whole or part of the person's property; or
- (b) if the person is a corporation—a liquidator of the corporation; or
- (c) if the person is an individual—
 - (i) the individual's trustee in bankruptcy; or
 - (ii) the individual's personal representative.

amount, of a bet, includes an amount worked out under section 29.

annual betting tax amount, for a betting operator, for a financial year, for part 2, division 4, see section 35.

annual liability see section 36.

annual refund amount see section 37(2).

annual return see section 53(2).

annual threshold amount means \$300,000.

approved form means a form approved under section 64.

assessment see the *Taxation Administration Act 2001*, schedule 2.

bet see section 6.

betting exchange means a facility, electronic or otherwise, that enables persons, through the operator of the facility—

- (a) to make bets with, or receive bets from, other persons; or

- (b) to make bets that may be—
- (i) matched with 1 or more opposing bets made through the operator of the facility; or
 - (ii) transmitted by the operator of the facility to another person for matching with 1 or more opposing bets.

betting exchange bet see section 9.

betting operations see section 13.

betting operator see section 12.

betting tax means betting tax imposed under section 19.

change of status see section 15.

commissioner means the commissioner under the *Taxation Administration Act 2001*.

end day, for a final period, see section 16(b).

executive officer, of a corporation, means a person who is concerned with, or takes part in, the corporation's management, whether or not the person is a director or the person's position is given the name of executive officer.

final liability see section 40.

final period, in relation to a person who has a change of status during a financial year, see section 16.

final refund amount see section 41(2).

final return see section 54(2).

free bet see section 7.

free component see section 7.

general bet see section 10.

lay-off bet see section 8.

monthly liability see sections 32(1) and 33(2).

monthly return see section 50(1).

notice means written notice.

penalty tax see the *Taxation Administration Act 2001*, schedule 2.

previous final period, in relation to a final period, means a final period that—

- (a) starts on the same day as the other final period; but
- (b) ends before the other final period.

previous liability, of a betting operator, for a final period, for part 2, division 5, see section 39.

qualifying month, in relation to a financial year, for a betting operator, for part 2, division 3, see section 31.

reassessment see the *Taxation Administration Act 2001*, schedule 2.

receive includes accept.

relevant betting operator see section 14.

relevant liability, of a betting operator, for a financial year, for part 2, division 4, see section 35.

return means a monthly return, an annual return or a final return.

return date, for lodgement of a return by a betting operator, means the date by which the betting operator is required under part 4 to lodge the return and pay betting tax.

Note—

See the *Taxation Administration Act 2001*, sections 14 and 30 in relation to the time for payment of betting tax.

tax see the *Taxation Administration Act 2001*, schedule 2.

taxable wagering revenue, of a betting operator, for a period, see section 24(1).

taxing rate means—

- (a) the amount, of not more than 15%, prescribed by regulation; or
- (b) if an amount is not prescribed under paragraph (a)—
15%.

taxpayer see the *Taxation Administration Act 2001*, schedule 2.

telecommunication device means—

- (a) a computer adapted for communicating by way of the internet or another communications network; or
- (b) a television receiver adapted to allow the viewer to transmit information by way of a cable television network or another communications network; or
- (c) a telephone; or
- (d) another electronic device or thing for communicating at a distance.

total eligible payments, of a betting operator, for a period, see section 24(3).

totalisator means—

- (a) a totalisator within the meaning of the *Wagering Act 1998*, section 8; or
- (b) a system that is substantially similar to a system mentioned in the *Wagering Act 1998*, section 8(1); or
- (c) an instrument, machine or device under which a system mentioned in paragraph (b) is operated.

totalisator bet see section 11.

total wagering revenue, of a betting operator, for a period, see section 24(2).