



New South Wales

# Gambling Advertising Prohibition Bill 2018

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The object of this Bill is to discourage the proliferation of all forms of gambling:

- (a) by prohibiting advertising of existing forms of gambling and gambling facilities, and
- (b) by prohibiting advertising and other promotional activities aimed at publicising new forms of gambling and new gambling facilities, and
- (c) by prohibiting the use of any form of gambling to support the sponsorship of any government or community activities, including (but not limited to) sporting activities, and
- (d) by requiring studies and assessments to be made of the impact of existing gambling legislation on families and the community.

## Outline of provisions

### Part 1 Preliminary

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on the date of assent to the proposed Act.

**Clause 3** sets out in detail the objects and aims of the proposed Act described above.

**Clause 4** declares that the proposed Act binds the Crown.

**Clause 5** defines certain terms for the purposes of the proposed Act.

## **Part 2 Prohibitions on gambling promotion**

**Clause 6** prohibits the display of gambling advertisements that can be seen or heard from a public place, the broadcasting or transmission of gambling advertisements and the distribution of objects that constitute or contain a gambling advertisement, except in certain circumstances.

**Clause 7** requires the odds of winning to be displayed if a gambling advertisement is displayed at a gambling facility (such as a casino) or at a place where gambling facilities are made available if any gambling advertisement is displayed there.

**Clause 8** prohibits the giving of benefits under sponsorships promoting gambling.

**Clause 9** prohibits the giving of free samples or the providing of free services for the purpose of promoting gambling.

**Clause 10** prohibits a person from promoting gambling in return for a sponsorship.

**Clause 11** prohibits the owner or manager of, or a person who is employed at, a gambling facility from requesting others to engage in gambling.

**Clause 12** allows the Minister to grant exemptions from the prohibitions created by proposed sections 6 and 10.

**Clause 13** provides for the removal of advertisements promoting gambling if they are displayed illegally.

**Clause 14** authorises persons prescribed by the regulations made under the proposed Act to enter premises (other than dwellings) to remove advertisements promoting gambling under the power conferred by proposed section 13.

## **Part 3 Miscellaneous**

**Clause 15** sets maximum penalties for offences against the proposed Act.

**Clause 16** requires proceedings for any such offence to be brought in the Local Court.

**Clause 17** provides that directors and managers of a body corporate (such as a company) will generally be liable for offences committed by the body corporate.

**Clause 18** declares that anything done or omitted to be done by a person in compliance with a mandatory requirement made by the proposed Act will not make the person liable for actions at law or in equity.

**Clause 19** enables the Governor to make regulations for the purposes of the proposed Act.



New South Wales

# Gambling Advertising Prohibition Bill 2018

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New South Wales

# Gambling Advertising Prohibition Bill 2018

No. , 2018

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## **A Bill for**

An Act to prohibit the advertising of gambling and related trade marks, brand names and logos; and for other purposes.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>Part 1 Preliminary</b>	2
<b>1 Name of Act</b>	3
This Act is the <i>Gambling Advertising Prohibition Act 2018</i> .	4
<b>2 Commencement</b>	5
This Act commences on the date of assent to this Act.	6
<b>3 Objects</b>	7
(1) The objects of this Act are:	8
(a) to discourage gambling:	9
(i) by persuading young people not to engage in gambling or the use of gambling facilities, and	10
(ii) by limiting the exposure of children and young people to persuasion to gamble or use gambling facilities, and	12
(iii) by encouraging those who wish to limit or give up gambling, and	14
(iv) by requiring the odds of winning to be displayed at gambling facilities or where gambling facilities are available, and	15
(v) by making it an offence to ask a person to participate in gambling, and	17
(b) to reduce the following undesirable consequences that result from gambling:	18
(i) addiction to gambling,	19
(ii) psychoses,	20
(iii) domestic violence,	21
(iv) deaths and suicides,	22
(v) financial ruin of families and businesses,	23
(vi) neglect of children, especially at casinos,	24
(vii) white-collar crimes, such as embezzlement, and	25
(c) to reduce any other harmful impact of gambling on the home, on small business and on industry generally.	26
(2) This Act also aims to increase public awareness of the problems associated with gambling and, as a consequence, to promote increased government support for the community and other services seeking to assist those adversely affected by gambling provided by Gamblers Anon, the Salvation Army, Lifeline Australia Inc, the Sydney City Mission, Wesley Mission and other like bodies prescribed by the regulations.	28
<b>4 Act to bind Crown</b>	33
This Act binds the Crown in right of New South Wales and, in so far as the legislative power of the Parliament of New South Wales permits, the Crown in all its other capacities.	34
<b>5 Definitions</b>	37
(1) In this Act:	38
<i>authorised officer</i> means a person prescribed, or of a class of persons prescribed, by the regulations.	39
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<b><i>gambling</i></b> means engaging in any game of chance in which one risks losing something. It includes, but is not limited to, participating in lotto or keno, and playing poker machines.	1 2 3
<b><i>gambling advertisement</i></b> means any writing, or a still or moving picture, sign, symbol or other visual image or an audible message, or a combination of any two or more of them, that gives publicity to, or otherwise promotes or is intended to promote, gambling or gambling facilities, and includes the display of trade marks, brand names and logos.	4 5 6 7 8
<b><i>gambling facilities</i></b> means any place at which a person can engage in gambling. They include casinos, TAB outlets and telephone or computer facilities for gambling.	9 10
<b><i>relevant day</i></b> means the second anniversary of the date of assent to this Act.	11
<b>Note.</b> The <i>Interpretation Act 1987</i> contains definitions and other provisions that affect the interpretation and application of this Act.	12 13
(2) Notes included in this Act do not form part of this Act.	14

## **Part 2 Prohibitions on gambling promotion**

### **6 Prohibition of gambling advertisements**

- (1) A person who, in New South Wales, for any direct or indirect benefit displays a gambling advertisement, so that the advertisement can be seen or heard from a public place, commits an offence.
- (2) An individual who broadcasts or transmits a gambling advertisement on any telecommunication medium commits an offence if there is a financial or other material benefit (either direct or indirect) to the owner of the radio or television station concerned, or to any company that controls the use of the medium, as a result of the broadcast or transmission.
- (3) A person who, in New South Wales:
- (a) distributes to the public any unsolicited object, or
  - (b) sells, hires or supplies for any direct or indirect benefit any object to any person,
- that constitutes or contains a gambling advertisement commits an offence.
- (4) This section does not apply to anything done earlier than 3 months after the date of assent to this Act.
- (5) This section does not apply to anything done after that period of 3 months, but before the relevant day or such earlier day as may be prescribed by the regulations (either generally or in a particular case or class of cases), under a contract or arrangement entered into before the day on which the Bill for this Act was introduced into the Legislative Council.
- (6) This section does not apply in relation to:
- (a) a gambling advertisement in or on a newspaper or book printed or published outside New South Wales, if the sole or main purpose of the newspaper or book is not the promotion or publicising of gambling or gambling facilities, or
  - (b) a gambling advertisement that is displayed inside a casino or other building that is a gambling facility, if it is directly adjacent to a place where gambling is conducted and complies with the regulations, or
  - (c) anything to which this section does not apply by virtue of an exemption granted under section 12.
- (7) Any contract for the doing of anything prohibited by this section (being a contract that purports to have been entered into after the Bill for this Act was introduced into the Legislative Council) is void, whether or not doing that thing constituted an offence when the contract purports to have been entered into.

### **7 Gambling odds to be displayed**

- (1) A person who displays a gambling advertisement at a gambling facility or at a place where gambling facilities are available for use, so that the advertisement can be seen or heard from a public place, commits an offence if a statement is not also displayed in accordance with subsection (2).
- (2) A statement is displayed in accordance with this subsection only if it declares the odds of winning by participating in the gambling to which the advertisement relates:
- (a) with the same degree of prominence as the advertisement, or
  - (b) where the regulations prescribe how the statement is to be displayed, as required by the regulations.



<b>8</b>	<b>Competitions promoting gambling</b>	1
	A person who, for the purpose of promoting gambling:	2
	(a) supplies (whether it is sent from inside or outside New South Wales) to another person in New South Wales:	3
		4
	(i) a prize, gift or other benefit, or	5
	(ii) a stamp, coupon, token, voucher, ticket or other thing by virtue of which the purchaser or any other person may become entitled to, or may qualify for, a prize, gift or other benefit (whether that entitlement or qualification is absolute or conditional), or	6
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	(b) conducts (whether from inside or outside New South Wales) a scheme prescribed by the regulations to be a scheme to promote gambling or a gambling facility, the whole or any part of which scheme is implemented in New South Wales,	10
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	commits an offence.	14
<b>9</b>	<b>Free samples or services</b>	15
	A person who, for the purpose of promoting gambling, offers or gives to another person a free sample of any substance or other thing or offers or gives to another person any free service (such as free gambling chips or free transport to a casino) commits an offence.	16
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<b>10</b>	<b>Sponsorship promoting gambling or gambling facilities</b>	20
	(1) A person who promotes or publicises, or agrees to promote or publicise, gambling or a gambling facility in New South Wales under a contract or an arrangement (whether or not legally binding) under which a sponsorship is provided or to be provided by another person, commits an offence.	21
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	(2) A person who provides or agrees to provide a sponsorship under a contract or arrangement of a kind referred to in subsection (1) commits an offence.	25
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	(3) This section does not apply in relation to:	27
	(a) anything done before the relevant day or before such earlier day as may be prescribed by the regulations either generally or in a particular case or class of cases, under a contract or arrangement entered into before the day on which the Bill for this Act was introduced into the Legislative Council, or	28
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	(b) anything to which this section does not apply by virtue of an exemption granted under section 12.	32
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	(4) Any contract for the doing of anything prohibited by this section (being a contract that purports to have been entered into after the Bill for this Act was introduced into the Legislative Council) is void, whether or not doing that thing constituted an offence when the contract purports to have been entered into.	34
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	(5) In this section:	38
	<i>sponsorship</i> includes:	39
	(a) providing a scholarship, prize, gift or other benefit, or	40
	(b) making a financial arrangement,	41
	in connection with sport, any one or more of the arts, education or any activity engaged in by young persons if it is provided or made for the purpose of promoting or publicising gambling or gambling facilities.	42
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<b>11</b>	<b>Inducement to gamble prohibited</b>	1
	A person who owns or is concerned in the management of, or is employed at, a gambling facility and who requests another person to participate in gambling commits an offence.	2 3 4
<b>12</b>	<b>Exemptions</b>	5
(1)	The Minister may, by notice published in the Gazette before the relevant day:	6
(a)	exempt a person or class of persons either wholly or in part from the operation of section 6 or 10 subject to such conditions (if any) as are set out in that notice or prescribed for the purposes of this paragraph, or	7 8 9
(b)	amend or revoke an exemption granted under this section.	10
(2)	An exemption may be granted under this section only if the Minister is satisfied that failure to grant the exemption would cause significant hardship to a person or persons other than the owners, lessees, licensees or operators of gambling facilities.	11 12 13
(3)	An exemption granted under this section has no effect after the relevant day.	14
<b>13</b>	<b>Removal of certain advertisements</b>	15
(1)	This section applies to a gambling advertisement:	16
(a)	if the advertisement was placed or displayed in contravention of this Act or the regulations, or	17 18
(b)	after the relevant day or such earlier day as may be prescribed by the regulations either generally or in a particular case or class of cases, whether or not the advertisement was placed or displayed in contravention of this Act or the regulations.	19 20 21 22
(2)	If a gambling advertisement is situated in a public place or on any premises from which it can be seen from a public place, the Local Court may order:	23 24
(a)	that the advertisement be removed or obscured by an authorised officer, and	25
(b)	if any person has been convicted of an offence against this Act or the regulations relating to the placing or displaying of the advertisement, that the person pay the reasonable costs incurred by the authorised officer in removing or obscuring the advertisement.	26 27 28 29
(3)	Subsection (2) does not apply to an advertisement that is displayed inside a gambling facility and that complies with the regulations.	30 31
(4)	An authorised officer does not commit a civil wrong and is not liable for damages for anything done or omitted to be done while removing or obscuring a gambling advertisement with reasonable care under the authority of such an order.	32 33 34
(5)	Any gambling advertisement in the form of an article that is removed in accordance with such an order is taken to be the property of such person as is specified in the order.	35 36 37
(6)	If any costs are payable under such an order, they may be recovered in a court of competent jurisdiction as a debt due to the Crown.	38 39
(7)	This section does not apply to a gambling advertisement while it may be lawfully displayed in accordance with an exemption provided by this Act or the regulations.	40 41
<b>14</b>	<b>Power of entry</b>	42
(1)	An authorised officer may enter any premises to remove or obscure a gambling advertisement under the authority of an order made by the Local Court.	43 44

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| (2) | This section does not allow a person to enter any premises or any part of premises used as a dwelling.   | 1<br>2      |
| (3) | A person commits an offence if the person in any way intimidates or obstructs an authorised officer who is removing or obscuring a gambling advertisement under the authority of an order made by the Local Court or who is attempting to do so. | 3<br>4<br>5 |

<b>Part 3</b>	<b>Miscellaneous</b>	1
<b>15</b>	<b>Penalties</b>	2
(1)	A person who commits an offence against this Act is liable:	3
(a)	in the case of an individual, to a penalty of not more than 50 penalty units for a first offence or 100 penalty units for a second or subsequent offence, or	4
(b)	in the case of a body corporate, to a penalty of not more than 200 penalty units for a first offence or 400 penalty units for a second or subsequent offence.	5
(2)	If a continuing state of affairs is created by any such offence, the offender is liable:	6
(a)	in the case of an individual, to a penalty of not more than 50 penalty units, or	7
(b)	in the case of a body corporate, to a penalty of not more than 200 penalty units, in respect of each day on which that offence continues, in addition to the penalty specified in subsection (1).	8
<b>16</b>	<b>Proceedings for offences</b>	9
(1)	Proceedings for an offence under this Act or the regulations may be dealt with summarily before the Local Court.	10
(2)	An offence against this Act may be dealt with as an indictable offence, but only if the prosecutor proposes that the offence be so dealt with.	11
(3)	If proceedings for an offence against this Act or the regulations are disposed of summarily before the Local Court, the maximum penalty that may be imposed is 100 penalty units, or the maximum penalty for the offence (whichever is the lesser), despite any other provision of this Act.	12
(4)	If proceedings for such an offence are taken on indictment, the maximum penalty that may be imposed is the maximum penalty for the offence.	13
(5)	Proceedings for an offence that are not taken on indictment may be commenced at any time within 12 months after the date on which the offence is alleged to have been committed.	14
<b>17</b>	<b>Liability of directors and managers of corporations</b>	15
(1)	If a body corporate contravenes, whether by act or omission, a provision of this Act or the regulations, each person who is a director of the body corporate or who is concerned in the management of the body corporate is taken to have engaged in the same unlawful conduct if the person knowingly authorised or permitted the unlawful conduct.	16
(2)	A person may be proceeded against and convicted under a provision pursuant to this section whether or not the body corporate has been proceeded against or convicted under that provision.	17
(3)	Nothing in this section affects any liability imposed on a body corporate for an offence committed by the corporation against this Act or the regulations.	18
<b>18</b>	<b>Certain civil proceedings barred</b>	19
	An action at law or in equity does not lie against a person for:	20
(a)	the omission to do any thing the doing of which, or	21
(b)	the doing of any thing the omission to do which, would constitute an offence against this Act.	22

**19 Regulations**

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| (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<br>3<br>4<br>5 |
| (2) A regulation may create an offence punishable by a penalty not exceeding 50 penalty units.   | 6<br>7           |