



New South Wales

# Gambling Legislation Amendment (Online and Other Betting) Bill 2019

## Explanatory note

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

## Overview of Bill

The objects of this Bill are to amend the *Betting and Racing Act 1998* and the *Totalizator Act 1997* as follows—

- (a) to prohibit direct marketing to the holders of betting accounts without express consent,
- (b) to prohibit inducements being offered to persons to open a betting account, to invite another person to open a betting account or not to close a betting account,
- (c) to require providers of betting accounts to set up schemes to enable holders to limit deposits into their accounts unless the holder expressly refuses,
- (d) to require providers of betting accounts to provide a simple and easy to use process to close betting accounts, to improve the access to holders of betting accounts to information about how to close accounts and to require requests to close accounts to be dealt with immediately,
- (e) to make it clear that offers of gambling products with incentives relating to better odds and other advantages to holders of betting accounts (whether by advertisement or otherwise) will be prohibited inducements,
- (f) to provide for circumstances in which directors of corporations will be liable for betting account offences,
- (g) to make other consequential amendments and provision of a transitional nature consequent on the enactment of the proposed Act.

## Outline of provisions

**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.

### **Schedule 1      Amendment of Betting and Racing Act 1998 No 114**

**Schedule 1[2]** inserts a definition of *betting account*, being an account held with a person who is a bookmaker or licensed to operate a totalizator or a betting exchange (a *licensed betting service provider*) for the purposes of enabling the holder of the account to place a bet with the provider.

**Schedule 1[3]** clarifies the meaning of inducement for the purposes of prohibitions on offering inducements (including in advertisements). An inducement will include the offer of a credit, voucher, reward or other benefit and the offer of a gambling product that includes additional benefits or enhancements for betting account holders and other products declared by regulations to be prohibited inducements. **Schedule 1[4]** makes a consequential amendment.

**Schedule 1[5]** prohibits a body that promotes and conducts race meetings (a *non-proprietary association*) or a licensed betting service provider or other person from providing gambling advertisements directly to holders of betting accounts by email, SMS text message or other direct means unless express consent to receiving gambling advertisements directly by that means has been given and not withdrawn. There must also be a means by which a holder of a betting account can easily unsubscribe from receiving the advertisements. A withdrawal of consent will take effect 24 hours after it is notified to the non-proprietary association or licensed betting service provider.

**Schedule 1[6]** inserts provisions that regulate aspects of the conduct of betting accounts. It will be an offence for a non-proprietary association, a licensed betting service provider or other person to offer or supply, or cause to be offered or supplied, an inducement to a person to open a betting account, to invite another person to open a betting account, not to close a betting account or to consent to receive gambling advertisements or not to withdraw a consent. The amendment also makes it an offence for a licensed betting service provider to offer or supply a free bet to the holder of a betting account unless any payouts from the free bet can be withdrawn at any time. A licensed betting service provider that provides betting accounts will be required to establish a deposit limit scheme which will establish a maximum deposit limit for account holders nominated by the account holder unless the account holder expressly refuses to join the scheme. The scheme must include a 7 day wait before an increased maximum deposit can take effect. Information about the scheme must be displayed on the licensed betting service provider's website and the provider must ask the holder about the limit or having a limit at least once every 12 months. A licensed betting service provider will also be required to ensure that the process for closing a betting account is simple and easy to use and enables closure using the same means by which a bet may be placed as well as by telephone and email. Information about how to close a betting account must be displayed prominently on the provider's website and at the place where a bet may be placed by the account holder, if the provider has a website. It will also be a requirement for a licensed betting service provider to immediately cease to accept bets after a request is made by a holder of a betting account to close the account and to close the account after all previous bets are finalised. **Schedule 1[1]** makes a consequential amendment.

**Schedule 1[7] and [8]** include the offences to be inserted by the proposed Schedule as executive liability offences for which a director of a corporation or a person involved in the management of a corporation who is in a position to influence the corporation's conduct will be liable if the corporation commits one of the offences and the director or person knows or ought reasonably to know the offence is being committed or fails to take all reasonable steps to prevent or stop the offence from being committed.

**Schedule 1[9]** applies the proposed offences relating to betting accounts to accounts in existence when the offences commence and the holders of those accounts.

## **Schedule 2      Amendment of Totalizator Act 1997 No 45**

**Schedule 2[1]** inserts a definition of *betting account*, being an account held with a licensed totalizator operator (a *licensee*) for the purposes of enabling the holder of the account to place a bet with the licensee. **Schedule 2[3]** makes a consequential amendment.

**Schedule 2[2]** clarifies the meaning of inducement for the purposes of prohibitions on offering inducements (including in advertisements). An inducement will include the offer of a credit, voucher, reward or other benefit and the offer of a gambling product that includes additional benefits or enhancements for betting account holders and other products declared by regulations to be prohibited inducements. **Schedule 2[5]** makes a consequential amendment.

**Schedule 2 [4]** prohibits a licensee from providing advertisements relating to totalizator betting directly to holders of betting accounts by means of email, SMS text message or other direct means, unless express consent to receiving totalizator advertisements by that means has been given and not withdrawn. There must be a means by which a holder of a betting account can easily unsubscribe from receiving the advertisements.

**Schedule 2[6]** applies the proposed offences relating to direct marketing to betting account holders to holders of accounts in existence when the offences commence.