

TOTALIZATOR (AMENDMENT) ACT 1987 No. 6

NEW SOUTH WALES



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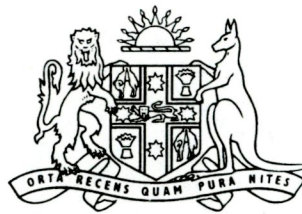
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TOTALIZATOR (AMENDMENT) ACT 1987 No. 6

NEW SOUTH WALES



Act No. 6, 1987

An Act to amend the Totalizator Act 1916 with respect to the minimum amount of dividends and with respect to unclaimed dividends and refunds; and for other purposes. [Assented to 3 March 1987]

Totalizator (Amendment) 1987

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

Short title

1. This Act may be cited as the "Totalizator (Amendment) Act 1987".

Commencement

2. (1) Except as provided by subsection (2), this Act shall commence on the date of assent to this Act.

(2) Schedules 1 and 2, and section 3 in its application to those Schedules, shall commence on such day or days as may be appointed by the Governor and notified by proclamation published in the Gazette.

Amendment of Act No. 75, 1916

3. The Totalizator Act 1916 is amended in the manner set forth in Schedules 1, 2 and 3.

Transitional provisions

4. Schedule 4 has effect.

SCHEDULE 1

(Sec. 3)

AMENDMENTS TO THE TOTALIZATOR ACT 1916 RELATING TO
THE MINIMUM AMOUNT OF DIVIDENDS

Section 9C (Determination of dividend)—

- (1) Section 9C (2)—

Omit "(3), (5) and (6)", insert instead "(3) and (5)".

- (2) Section 9C (3)—

Omit "subsections (4) and (6)", insert instead "subsection (4)".

Totalizator (Amendment) 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE TOTALIZATOR ACT 1916 RELATING TO
THE MINIMUM AMOUNT OF DIVIDENDS—*continued*

(3) Section 9c (4)—

Omit the subsection, insert instead:

(4) Subsection (3) does not apply to an event or contingency in circumstances—

(a) where a 60-20-20 Totalizator is used;

(b) where—

(i) 2 or more starters fill a place (including first place) in the event or contingency; and

(ii) a pool or part of a pool (ascertained in respect of that place in accordance with this Act, the regulations or the rules) is required to be divided among the starters filling that place; or

(c) where the rules provide that that subsection does not apply.

(4) Section 9c (5)—

Omit “, subject to subsection (6),”.

(5) Section 9c (6)—

Omit the subsection.

(6) Section 9c (6A)—

Omit the subsection.

(7) Section 9c (7)—

Omit “or (6)”.

SCHEDULE 2

(Sec. 3)

AMENDMENTS TO THE TOTALIZATOR ACT 1916 RELATING TO
UNCLAIMED DIVIDENDS AND REFUNDS

- (1) Section 9 (**Unclaimed and incorrectly calculated dividends and unclaimed refunds**)—

Section 9 (3)—

Omit “one month”, insert instead “2 months”.

- (2) Section 10 (**Power of Minister to assume control of totalizator**)—

Section 10 (5)—

Omit “one month”, insert instead “2 months”.

- (3) Section 10A—

After section 10, insert:

Entitlements to unclaimed dividends and refunds

10A. (1) A person who claims to be entitled to a dividend or refundable amount which has been or is required to have been carried to the Consolidated Fund under section 9 (3) or 10 (5) may apply to an authorised person for a direction under this section.

- (2) The authorised person shall—

(a) if satisfied that the applicant would have been entitled to the dividend or refundable amount if the applicant had claimed it before the end of the period of 2 months referred to in section 9 (3) or 10 (5); and

(b) if satisfied that it has not already been paid,

direct that an amount equal to the dividend or refundable amount be paid to the applicant.

(3) An amount directed to be paid under this section is a charge on the Consolidated Fund and is payable out of that Fund without further appropriation than this subsection.

(4) If an amount is paid in accordance with a direction under this section to a person who is not entitled to it, the person entitled to it may recover it as a debt from the other person by proceedings brought in a court of competent jurisdiction.

*Totalizator (Amendment) 1987*SCHEDULE 2—*continued*AMENDMENTS TO THE TOTALIZATOR ACT 1916 RELATING TO
UNCLAIMED DIVIDENDS AND REFUNDS—*continued*

(5) If an amount has been paid in good faith in accordance with a direction under this section to a person who is not entitled to it, the Minister, the Treasurer and the authorised person are relieved from all further liability in respect of the amount.

(6) The Minister may, by order in writing, authorise a public servant, the Totalizator Agency Board or an officer or employee of that Board to give directions under this section.

(7) In this section, “authorised person” means the Minister or a person for the time being authorised by the Minister under this section.

(4) Section 11 (**Returns**)—

Section 11 (1) (b)—

Omit “one month”, insert instead “2 months”.

SCHEDULE 3

(Sec. 3)

MINOR AMENDMENTS TO THE TOTALIZATOR ACT 1916

(1) Italicised heading before section 1—

Omit the heading, insert instead:

PART 1
PRELIMINARY

(2) Section 2 (**Definitions**)—

From the definition of “Racecourse”, omit “—1931”.

*Totalizator (Amendment) 1987*SCHEDULE 3—*continued*MINOR AMENDMENTS TO THE TOTALIZATOR ACT 1916—
continued

- (3) Italicised heading before section 3—

Omit the heading, insert instead:

PART 2
USE OF TOTALIZATOR

- (4) Italicised heading before section 8—

Omit the heading, insert instead:

PART 3
DISTRIBUTION AND PAYMENT OF MONEY INVESTED

- (5) Section 8 (
- Distribution of money invested on totalizators other than those to which section 8A or 10 applies**
-)—

Section 8 (1)—

After “section 8A”, insert “or 10”.

- (6) Section 8A (
- Distribution of money invested on totalizators to which this section applies**
-)—

Section 8A (1)—

From section 8A (1) (c), omit “Office.”, insert instead:

Office,

except a totalizator to which section 10 applies.

- (7) Section 9 (
- Unclaimed and incorrectly calculated dividends and unclaimed refunds**
-)—

Section 9 (3)—

After “used”, insert “by a racing club”.

- (8) Italicised heading before section 10—

Omit the heading, insert instead:

PART 4
GENERAL PROVISIONS

*Totalizator (Amendment) 1987*SCHEDULE 3—*continued*MINOR AMENDMENTS TO THE TOTALIZATOR ACT 1916—
continued

- (9) Italicised heading before section 18—

Omit the heading, insert instead:

PART 5
INSPECTORS

- (10) Italicised heading before section 19A—

Omit the heading, insert instead:

PART 6
RACECOURSE DEVELOPMENT FUND

- (11) Italicised heading before section 20—

Omit the heading, insert instead:

PART 7
MISCELLANEOUS

- (12) Section 21 and preceding italicised heading—

Omit the section and heading, insert instead:

Proceedings for offences

21. Proceedings for an offence against this Act or the regulations shall be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

SCHEDULE 4

(Sec. 4)

TRANSITIONAL PROVISIONS

Application of amendments relating to minimum amount of dividends

1. The amendments made by Schedule 1 to section 9c of the Totalizator Act 1916 do not apply in relation to events and contingencies happening before the commencement of Schedule 1.

Totalizator (Amendment) 1987

SCHEDULE 4—*continued*

TRANSITIONAL PROVISIONS—*continued*

Application of amendments relating to period after which unclaimed dividends and refunds are to be paid to Consolidated Fund

2. (1) The amendments made by Schedule 2 to sections 9, 10 and 11 of the Totalizator Act 1916 (as in force before the commencement of Schedule 2) apply in relation to events and contingencies happening on or after that commencement.

(2) Sections 9, 10 and 11 of the Totalizator Act 1916 apply in relation to events and contingencies happening before the commencement of Schedule 2 as if that Schedule had not been enacted.

Application of amendments relating to entitlement to unpaid dividends and refunds

3. (1) Section 10A of the Totalizator Act 1916 applies to dividends and refundable amounts carried to the Consolidated Fund before or after the commencement of Schedule 2.

(2) In the application of section 10A of the Totalizator Act 1916 to dividends and refundable amounts relating to events and contingencies happening before the commencement of Schedule 2, the reference in that section to the period of 2 months shall be read as a reference to the period of one month.



TOTALIZATOR (AMENDMENT) BILL 1987

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 ensure that in no case will a successful punter receive a dividend of an amount less than the amount invested by the punter in respect of an event or contingency (Schedule 1);
- (b) to extend from 1 month to 2 months the period during which punters may collect dividends and refunds before they are paid into the Consolidated Fund (Schedule 2 (1), (2));
- (c) to confer on punters an entitlement to recover dividends and refunds from the Consolidated Fund after the end of that period (Schedule 2 (3)); and
- (d) to effect minor amendments (Schedule 3).

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for Schedules 1 and 2 to the proposed Act to commence on a day or days to be appointed by the Governor-in-Council. The remaining provisions are to commence on assent.

Clause 3 is a formal provision that gives effect to the Schedules of amendments.

Clause 4 is a formal provision that gives effect to the Schedule of transitional provisions.

SCHEDULE 1—AMENDMENTS TO THE TOTALIZATOR ACT 1916 RELATING TO THE MINIMUM AMOUNT OF DIVIDENDS

Schedule 1 amends section 9C of the Principal Act, which provides for the determination of dividends. The amendment is designed to ensure that in no case (including the case of a dead-heat for a place) will a successful punter receive as a dividend an amount less than the amount invested by the punter. The main amendments in the Schedule are the repeal of section 9C (6) and the enactment of section 9C (4) (b).

SCHEDULE 2—AMENDMENTS TO THE TOTALIZATOR ACT 1916 RELATING TO UNCLAIMED DIVIDENDS AND REFUNDS

Schedule 2 (1) and (2) amend sections 9 and 10 of the Principal Act so as to provide that unclaimed dividends and unclaimed refunds are not required to be paid into the Consolidated Fund until 2 months after they first became payable instead of 1 month as at present.

Schedule 2 (3) inserts section 10A into the Principal Act which entitles successful punters who do not claim their dividends or refunds until after that period of 2 months has expired to recover equivalent amounts from the Consolidated Fund.

Schedule 2 (4) makes a consequential amendment.

SCHEDULE 3—MINOR AMENDMENTS TO THE TOTALIZATOR ACT 1916

Schedule 3 amends the Principal Act in a number of minor respects. Items (1), (3), (4), (8), (9), (10) and (11) divide the Principal Act into numbered Parts. Item (2) omits an out-of-date reference in a citation of an Act. Items (5), (6) and (7) make it clear that sections 8, 8A and 9 of the Principal Act do not apply to totalizators controlled under section 10 of the Principal Act (that section independently makes provision for the matters dealt with by those sections). Item (12) re-enacts section 21 of the Principal Act in an up-to-date form.

SCHEDULE 4—TRANSITIONAL PROVISIONS

Schedule 4 provides that the amendments made by Schedules 1 and 2 apply prospectively, except that section 10A (as inserted by Schedule 2) allows punters to claim unclaimed dividends and refunds from the Consolidated Fund, whether they were paid into the Fund before or after the commencement of the section.

TOTALIZATOR (AMENDMENT) BILL 1987

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Act No. 75, 1916
4. Transitional provisions

SCHEDULE 1—AMENDMENTS TO THE TOTALIZATOR ACT 1916 RELATING TO THE MINIMUM AMOUNT OF DIVIDENDS

SCHEDULE 2—AMENDMENTS TO THE TOTALIZATOR ACT 1916 RELATING TO UNCLAIMED DIVIDENDS AND REFUNDS

SCHEDULE 3—MINOR AMENDMENTS TO THE TOTALIZATOR ACT 1916

SCHEDULE 4—TRANSITIONAL PROVISIONS

TOTALIZATOR (AMENDMENT) BILL 1987

NEW SOUTH WALES



No. , 1987

A BILL FOR

An Act to amend the Totalizator Act 1916 with respect to the minimum amount of dividends and with respect to unclaimed dividends and refunds; and for other purposes.

Totalizator (Amendment) 1987

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

5 Short title

1. This Act may be cited as the "Totalizator (Amendment) Act 1987".

Commencement

2. (1) Except as provided by subsection (2), this Act shall commence on the date of assent to this Act.
- 10 (2) Schedules 1 and 2, and section 3 in its application to those Schedules, shall commence on such day or days as may be appointed by the Governor and notified by proclamation published in the Gazette.

Amendment of Act No. 75, 1916

- 15 3. The Totalizator Act 1916 is amended in the manner set forth in Schedules 1, 2 and 3.

Transitional provisions

4. Schedule 4 has effect.

SCHEDULE 1

(Sec. 3)

**20 AMENDMENTS TO THE TOTALIZATOR ACT 1916 RELATING TO
THE MINIMUM AMOUNT OF DIVIDENDS**
Section 9C (Determination of dividend)—

- (1) Section 9C (2)—
Omit "(3), (5) and (6)", insert instead "(3) and (5)".
- 25 (2) Section 9C (3)—
Omit "subsections (4) and (6)", insert instead "subsection (4)".

Totalizator (Amendment) 1987

SCHEDULE 1—*continued*

AMENDMENTS TO THE TOTALIZATOR ACT 1916 RELATING TO
THE MINIMUM AMOUNT OF DIVIDENDS—*continued*

(3) Section 9C (4)—

Omit the subsection, insert instead:

(4) Subsection (3) does not apply to an event or contingency in circumstances—

5 (a) where a 60-20-20 Totalizator is used;

(b) where—

(i) 2 or more starters fill a place (including first place) in the event or contingency; and

10 (ii) a pool or part of a pool (ascertained in respect of that place in accordance with this Act, the regulations or the rules) is required to be divided among the starters filling that place; or

(c) where the rules provide that that subsection does not apply.

15 (4) Section 9C (5)—

Omit “, subject to subsection (6),”.

(5) Section 9C (6)—

Omit the subsection.

(6) Section 9C (6A)—

20 Omit the subsection.

(7) Section 9C (7)—

Omit “or (6)”.

Totalizator (Amendment) 1987

SCHEDULE 2

(Sec. 3)

AMENDMENTS TO THE TOTALIZATOR ACT 1916 RELATING TO
UNCLAIMED DIVIDENDS AND REFUNDS

- 5 (1) Section 9 (**Unclaimed and incorrectly calculated dividends and unclaimed refunds**)—

Section 9 (3)—

Omit “one month”, insert instead “2 months”.

- (2) Section 10 (**Power of Minister to assume control of totalizator**)—

10 Section 10 (5)—

Omit “one month”, insert instead “2 months”.

- (3) Section 10A—

After section 10, insert:

Entitlements to unclaimed dividends and refunds

15 10A. (1) A person who claims to be entitled to a dividend or refundable amount which has been or is required to have been carried to the Consolidated Fund under section 9 (3) or 10 (5) may apply to an authorised person for a direction under this section.

(2) The authorised person shall—

20 (a) if satisfied that the applicant would have been entitled to the dividend or refundable amount if the applicant had claimed it before the end of the period of 2 months referred to in section 9 (3) or 10 (5); and

(b) if satisfied that it has not already been paid,

25 direct that an amount equal to the dividend or refundable amount be paid to the applicant.

(3) An amount directed to be paid under this section is a charge on the Consolidated Fund and is payable out of that Fund without further appropriation than this subsection.

30 (4) If an amount is paid in accordance with a direction under this section to a person who is not entitled to it, the person entitled to it may recover it as a debt from the other person by proceedings brought in a court of competent jurisdiction.

*Totalizator (Amendment) 1987*SCHEDULE 2—*continued*AMENDMENTS TO THE TOTALIZATOR ACT 1916 RELATING TO
UNCLAIMED DIVIDENDS AND REFUNDS—*continued*

(5) If an amount has been paid in good faith in accordance with a direction under this section to a person who is not entitled to it, the Minister, the Treasurer and the authorised person are relieved from all further liability in respect of the amount.

5 (6) The Minister may, by order in writing, authorise a public servant, the Totalizator Agency Board or an officer or employee of that Board to give directions under this section.

10 (7) In this section, “authorised person” means the Minister or a person for the time being authorised by the Minister under this section.

(4) Section 11 (**Returns**)—

Section 11 (1) (b)—

Omit “one month”, insert instead “2 months”.

SCHEDULE 3

15

(Sec. 3)

MINOR AMENDMENTS TO THE TOTALIZATOR ACT 1916

(1) *Italicised heading before section 1—*

Omit the heading, insert instead:

20

PART 1
PRELIMINARY

(2) Section 2 (**Definitions**)—

From the definition of “Racecourse”, omit “—1931”.

*Totalizator (Amendment) 1987*SCHEDULE 3—*continued*MINOR AMENDMENTS TO THE TOTALIZATOR ACT 1916—
continued

- (3) Italicised heading before section 3—

Omit the heading, insert instead:

PART 2
USE OF TOTALIZATOR

- 5 (4) Italicised heading before section 8—

Omit the heading, insert instead:

PART 3
DISTRIBUTION AND PAYMENT OF MONEY INVESTED

- 10 (5) Section 8 (
- Distribution of money invested on totalizators other than those to which section 8A or 10 applies**
-)—

Section 8 (1)—

After “section 8A”, insert “or 10”.

- (6) Section 8A (
- Distribution of money invested on totalizators to which this section applies**
-)—

- 15 Section 8A (1)—

From section 8A (1) (c), omit “Office.”, insert instead:

Office,

except a totalizator to which section 10 applies.

- 20 (7) Section 9 (
- Unclaimed and incorrectly calculated dividends and unclaimed refunds**
-)—

Section 9 (3)—

After “used”, insert “by a racing club”.

- (8) Italicised heading before section 10—

Omit the heading, insert instead:

- 25 PART 4
-
- GENERAL PROVISIONS

*Totalizator (Amendment) 1987*SCHEDULE 3—*continued*MINOR AMENDMENTS TO THE TOTALIZATOR ACT 1916—
continued

(9) Italicised heading before section 18—

Omit the heading, insert instead:

PART 5
INSPECTORS

5 (10) Italicised heading before section 19A—

Omit the heading, insert instead:

PART 6
RACECOURSE DEVELOPMENT FUND

(11) Italicised heading before section 20—

10 Omit the heading, insert instead:

PART 7
MISCELLANEOUS

(12) Section 21 and preceding italicised heading—

Omit the section and heading, insert instead:

15 **Proceedings for offences**

21. Proceedings for an offence against this Act or the regulations shall be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

SCHEDULE 4

20

(Sec. 4)

TRANSITIONAL PROVISIONS

Application of amendments relating to minimum amount of dividends

25 1. The amendments made by Schedule 1 to section 9C of the Totalizator Act 1916 do not apply in relation to events and contingencies happening before the commencement of Schedule 1.

Totalizator (Amendment) 1987

SCHEDULE 4—*continued*TRANSITIONAL PROVISIONS—*continued***Application of amendments relating to period after which unclaimed dividends and refunds are to be paid to Consolidated Fund**

2. (1) The amendments made by Schedule 2 to sections 9, 10 and 11 of the Totalizator Act 1916 (as in force before the commencement of Schedule 2) apply in relation to events and contingencies happening on or after that commencement.

(2) Sections 9, 10 and 11 of the Totalizator Act 1916 apply in relation to events and contingencies happening before the commencement of Schedule 2 as if that Schedule had not been enacted.

Application of amendments relating to entitlement to unpaid dividends and refunds

10 3. (1) Section 10A of the Totalizator Act 1916 applies to dividends and refundable amounts carried to the Consolidated Fund before or after the commencement of Schedule 2.

15 (2) In the application of section 10A of the Totalizator Act 1916 to dividends and refundable amounts relating to events and contingencies happening before the commencement of Schedule 2, the reference in that section to the period of 2 months shall be read as a reference to the period of one month.