

South Australia

# Authorised Betting Operations Regulations 2016

under the *Authorised Betting Operations Act 2000*

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## Part 1—Preliminary

### 1—Short title

These regulations may be cited as the *Authorised Betting Operations Regulations 2016*.

### 3—Interpretation

In these regulations—

*Act* means the *Authorised Betting Operations Act 2000*;

*GST* means the tax payable under the GST law;

**GST law** means—

- (a) *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth; and
- (b) the related legislation of the Commonwealth dealing with the imposition of a tax on the supply of goods, services and other things.

#### 4—Meaning of fixed-odds betting

- (1) Pursuant to section 91(2)(ab) of the Act, the following forms of betting on races held by licensed racing clubs, or races that are the subject of approved contingencies, are declared to be fixed-odds betting for the purposes of the Act:
  - (a) the form of betting where a person makes a bet on a race result at starting price odds;
  - (b) the form of betting where a person makes a bet on a race result at best price odds;
  - (c) the form of betting where a person makes a bet on a race result on the basis that the amount payable on a winning bet is the amount that would be payable if the bet had been made as a totalisator bet with—
    - (i) the holder of the major betting operations licence; or
    - (ii) if the holder of the major betting operations licence is not conducting off-course totalisator betting in respect of the race, the body authorised to conduct off-course totalisator betting on the race in the jurisdiction in which the race is held,(ignoring any adjustment to the totalisator dividend that would have resulted if the bet had actually been made as a totalisator bet).
- (2) In this regulation—

**best price odds** means the odds determined—

- (a) in the case of a race held by a licensed racing club—by the betting price information service in attendance at the race or, in the absence of that service, by the club; or
- (b) in the case of any other race—by the body holding the race,

to be the best price for the race result (the most favourable odds available on the race result at any time);

**betting price information service** means a body holding an approval under section 61(3) of the Act to communicate betting price information for races held by licensed racing clubs;

**starting price odds** means the odds determined—

- (a) in the case of a race held by a licensed racing club—by the betting price information service in attendance at the race or, in the absence of that service, by the club; or
- (b) in the case of any other race—by the body holding the race,

to be the starting price for the race result (the odds available on the race result immediately before the start of the race).

## Part 2—Licences

### 5—Prescribed races for classes of licence under Part 3

For the purposes of section 34(1)(a), (b) and (d) of the Act, a race conducted in the course of a business for which a licence is required under the *Racing (Proprietary Business Licensing) Act 2000* is a race of a prescribed kind.

### 6—Renewal of licences under Part 3

- (1) An application for renewal of a licence granted under Part 3 of the Act must be made before the date on which the licence would expire in the absence of an application for renewal but may not be made earlier than 6 months before that date.
- (2) If the Commissioner grants an application for renewal of a licence under Part 3 of the Act, the licence will continue to have effect for a period specified by the Commissioner in granting the application.

## Part 3—Betting operations tax

### 7—Interpretation

In this Part—

*Commissioner* means the Commissioner of State Taxation.

### 7A—Meaning of net State wagering revenue

- (1) For the purposes of paragraph (b) of the definition of *net State wagering revenue* in section 40B of the Act, all fees and commissions associated with making bets with, or using a service provided by, a betting operator are prescribed.
- (2) For the purposes of paragraph (d) of the definition of *net State wagering revenue* in section 40B of the Act, the amount of any refund of a bet made with, or using a service provided by, a betting operator by persons located in South Australia at the time of making the bet or using the service is prescribed.

### 7B—Registration of betting operator liable to pay betting operations tax

- (1) A betting operator who is not already registered must apply for registration under this regulation if the betting operator is liable to pay betting operations tax in respect of a financial year under section 40D of the Act.  
Maximum penalty: \$5 000.
- (2) An application for registration must be made to the Commissioner in a manner and form approved by the Commissioner—
  - (a) in the case of a betting operator who is a licensed bookmaker—within 7 days after the end of the relevant financial year; or
  - (b) in the case of any other betting operator—within 7 days after the month in which the betting operator becomes liable to pay betting operations tax for the relevant financial year.
- (3) On receiving an application under this regulation, the Commissioner must register the applicant.

- (4) The Commissioner may cancel the registration of a betting operator if satisfied that the betting operator has ceased to pay or have a liability to pay betting operations tax as set out in subregulation (1).

### **7C—Lodgement of return and payment of tax**

- (1) A licensed bookmaker who is registered or required to apply for registration under this Part must, within 21 days after the end of each financial year—
- (a) lodge with the Commissioner a return setting out the bookmaker's net State wagering revenue for the relevant financial year; and
  - (b) pay to the Commissioner the betting operations tax payable on that revenue (if any).
- (2) Any other betting operator who is registered or required to apply for registration under this Part must, within 21 days after the end of the month in a financial year in which the betting operator's net State wagering revenue for that financial year first exceeds \$150 000 (the *first month*), and within 21 days after the end of each subsequent month of that financial year—
- (a) lodge with the Commissioner a return setting out—
    - (i) the betting operator's net State wagering revenue for that month; and
    - (ii) the betting operator's total net State wagering revenue for the relevant financial year; and
  - (b) pay to the Commissioner any betting operations tax payable on the net State wagering revenue for that month as follows:
    - (i) for the first month—the betting operator is liable to pay betting operations tax for that month at a rate of 15% of the amount of the betting operator's total net State wagering revenue for the year to date in excess of \$150 000;
    - (ii) for each subsequent month—
      - (A) if there is a net loss in the betting operator's State wagering revenue—no betting operations tax is payable for that month; or
      - (B) if there is a net gain in the betting operator's State wagering revenue—the betting operator is liable to pay, for that month, an amount of betting operations tax equal to—
        - 15% of the amount of the betting operator's total net State wagering revenue for that month; less
        - the amount of any overpayment of betting operations tax made by the betting operator for the financial year to date (taking into account any net loss in the betting operator's State wagering revenue that occurred in the previous month).
- (3) The Commissioner may vary—
- (a) the time within which a specified betting operator is required to furnish returns or pay betting operations tax; or

- (b) the period in relation to which a specified betting operator, or betting operators of a specified class, are required to furnish returns or pay betting operations tax.
- (4) A variation made under subregulation (3)—
  - (a) may be made subject to conditions or limitations; and
  - (b) may be made, varied or revoked by notice in writing to a betting operator or by notice in the Gazette.

#### **7D—Information to be included in return**

A return lodged under this Part must be in a form approved by the Commissioner and contain the following information:

- (a) the betting operator's name, address, telephone number and email address;
- (b) the following details in respect of the net State wagering revenue for the period to which the return relates:
  - (i) the total amount of all bets made with, or using a service provided by, the betting operator by persons who were located in South Australia at the time of making the bet or using the service;
  - (ii) the total of any fees or commissions associated with making the bets or using the service;
  - (iii) the total amount of all winnings paid or payable in respect of those bets.

### **Part 4—Miscellaneous**

#### **8—Unclaimed winnings on bets made with licensed bookmaker**

- (1) A licensed bookmaker must, on or before 30 September in every year, pay to the Treasurer to be credited to the Consolidated Account the amount of any unclaimed winnings on bets the outcome of which was determined during the preceding financial year.
- (2) If a payment has been made under subregulation (1) in respect of unclaimed winnings on a bet, the Treasurer may pay the amount of the winnings from the Consolidated Account (which is appropriated to the necessary extent) to the licensed bookmaker with whom the bet was made or the person entitled to be paid the winnings if—
  - (a) in the case of payment to the licensed bookmaker—the Treasurer is satisfied that the bookmaker has, since the payment to the Treasurer in respect of the bet, paid the amount of the winnings to the person entitled to be paid the winnings on the bet; and
  - (b) in the case of payment to the person entitled to be paid the winnings—the Treasurer is satisfied that the person is so entitled and has not made a claim to the licensed bookmaker for payment of the winnings or has made such a claim but payment has been refused; and
  - (c) in any case—

- (i) the Treasurer has not made payment of the amount of the winnings to any other person; and
  - (ii) the Treasurer is satisfied that no other person has a valid claim to be paid the winnings.
- (3) In this regulation—  
*licensed bookmaker* includes a person who was formerly a licensed bookmaker.

### 9—Unclaimed dividends on bets made with licensed racing club

A licensed racing club must, on or before 30 September in every year, pay to the Treasurer for the credit of the Consolidated Account an amount being the sum of the amounts accruing to the club as unclaimed dividends during the preceding financial year.

### 10—Contributions payable under section 62E of Act

- (1) For the purposes of section 62E(12) of the Act, the amount that may be recovered as a debt due to the relevant racing controlling authority by an operator who conducts SA race betting operations when a contribution agreement is not in force is 20% of the gross proceeds of those betting operations.
- (2) For the purposes of subregulation (1)—
  - (a) subject to paragraph (b), the following amounts are to be included in the calculation of gross proceeds of betting operations:
    - (i) any amount (excluding GST) paid to the betting operator as a bet on an SA race;
    - (ii) any amount (excluding GST) paid to the betting operator in respect of a relevant lay-off bet made by the operator;
    - (iii) any amount (excluding GST) paid to the betting operator as a fee or commission relating to a bet or an offer to make a bet on an SA race on a betting exchange operated by the operator; and
  - (b) the following amounts are not to be included in the calculation of gross proceeds of betting operations:
    - (i) any amount (excluding GST) paid out by the betting operator in respect of a bet on an SA race made with the operator;
    - (ii) any amount (excluding GST) paid out by the betting operator as a relevant lay-off bet.

**Note—**

In summary, gross proceeds are calculated as the total amount received as bets, dividends on relevant lay-off bets and commission less amounts paid out in respect of bets and relevant lay-off bets.

- (3) For the purposes of this regulation—
  - (a) a bet is a *lay-off bet* if—
    - (i) it is a bet made by a betting operator with a person authorised under the law of this State, another State or a Territory of Australia to conduct betting; and

- (ii) the bet is made by the betting operator to off-set the operator's liability in respect of amounts paid to the betting operator as fixed-odds bets on SA races; and
    - (iii) the bet relates to the same contingencies as the fixed-odds bets referred to in subparagraph (ii); and
  - (b) a lay-off bet is a *relevant lay-off bet* if the amount that the betting operator stands to win on the lay-off bet and any other lay-off bets relating to the same contingencies does not exceed the amount the betting operator stands to lose on the fixed-odds bets in respect of which the operator's liability is off-set.
- (4) In this regulation—
- SA race* means a race held in this State by a racing club.

## 11—Prescribed agreements, arrangements or instruments

For the purposes of the definition of *prescribed agreement, arrangement or instrument* in section 81(2) of the Act, the following agreements, arrangements or instruments are prescribed:

- (a) the Intercode Agreement, within the meaning of the Government Agreement, entered into between Racing SA Pty Limited (ACN 095 660 058), Thoroughbred Racing SA Limited (ACN 094 475 939), Harness Racing SA Limited (ACN 094 559 930) and Greyhound Racing SA Limited (ACN 094 569 525) as amended by amending deed dated 15 August 2001;
- (b) the constitution of Racing SA Pty Limited (ACN 095 660 058) as at the commencement of this regulation;
- (c) the constitution of Thoroughbred Racing SA Limited (ACN 094 475 939) as at the commencement of this regulation;
- (d) the constitution of Harness Racing SA Limited (ACN 094 559 930) as at the commencement of this regulation;
- (e) the constitution of Greyhound Racing SA Limited (ACN 094 569 525) as at the commencement of this regulation.

## Legislative history

### Notes

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of these regulations (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### Legislation revoked by principal regulations

The *Authorised Betting Operations Regulations 2016* revoked the following:

*Authorised Betting Operations Regulations 2001*

### Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2016	203	<i>Gazette 25.8.2016 p3465</i>	25.8.2016: r 2
2017	127	<i>Gazette 22.6.2017 p2341</i>	1.7.2017: r 2
2017	194	<i>Gazette 27.6.2017 p2637</i>	1.7.2017: r 2
2018	138	<i>Gazette 21.6.2018 p2377</i>	1.7.2018: r 2
<b>2018</b>	<b>236</b>	<b><i>Gazette 29.11.2018 p4115</i></b>	<b>1.12.2018: r 2</b>

### Provisions varied

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Pt 1		
heading	inserted by 194/2017 r 4	1.7.2017
r 2	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>1.7.2017</i>
Pt 2		
heading	inserted by 194/2017 r 5	1.7.2017
<b>r 6</b>		
<b>r 6(2)</b>	<b>varied by 236/2018 r 4</b>	<b>1.12.2018</b>
r 7	<i>deleted by 194/2017 r 6</i>	<i>1.7.2017</i>
Pt 3	inserted by 194/2017 r 6	1.7.2017
Pt 4		
heading	inserted by 194/2017 r 7	1.7.2017



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<i>r 12 before deletion by 236/2018</i>		
<i>r 12(1)</i>	<i>varied by 138/2018 r 4</i>	<i>1.7.2018</i>
<b><i>r 12</i></b>	<b><i>deleted by 236/2018 r 5</i></b>	<b><i>1.12.2018</i></b>
<i>Sch 1</i>	<i>substituted by 127/2017 r 4</i>	<i>1.7.2017</i>
	<i>substituted by 138/2018 r 5</i>	<i>1.7.2018</i>
	<b><i>deleted by 236/2018 r 6</i></b>	<b><i>1.12.2018</i></b>
<i>Sch 2</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>1.7.2017</i>

## Historical versions

1.7.2017

1.7.2018