

Racing Amendment Bill

Government Bill

Explanatory note

General policy statement

This Bill seeks to amend the Racing Act 2003 (the **Act**) to implement a range of provisions that are designed to—

- improve the competitiveness of the New Zealand Racing Board's (the **Board**) betting operations; and
- require offshore betting operators to—
 - pay to use New Zealand racing and sporting information in their betting products (an **information use charge**); and
 - pay when they take bets on racing or sporting events (or both) where those bets originate in New Zealand (a **consumption charge**); and
- provide for regulations to be made to revise the formula that is used for allocating proceeds from sports betting between the racing and sports sectors.

The Board is the sole legally authorised provider of racing and sports betting in New Zealand. However, betting operators based in other jurisdictions may offer bets to New Zealanders over the Internet and may offer bets on New Zealand sports and racing to all of their customers, regardless of the location of those customers. Those offshore betting operators are not bound by New Zealand law, other than a prohibition on them advertising in this country. Unlike the Board, therefore, offshore operators are not required to contribute to the New Zealand racing and sports industries or to gambling harm services in this country.

The amendments in this Bill reflect recommendations from the Offshore Racing and Sports Betting Working Group (**Working Group**), which was established by the Minister for Racing in 2015. The Working Group was asked to review the issue of offshore gambling and its impact on the Board's income.

The Bill provides for the information use and consumption charges to be inserted into the Act (as *new Part 6AA*). The Bill provides that the Department of Internal Affairs will administer the charges as the “designated authority”. The Department may delegate its functions and powers as designated authority to, without limitation, the Board, a Crown entity as defined in section 7 of the Crown Entities Act 2004, or another department.

The Bill requires offshore betting operators to seek the permission of the designated authority before they can use New Zealand racing and sporting information. Offshore betting operators must enter into agreements with the designated authority in respect of the information use charge. New Zealand law will apply in relation to any disputes that may arise in respect of those agreements and enforcement of those agreements, including recovery of outstanding charges and penalties. The designated authority may issue a penalty notice to an offshore betting operator if the betting operator has failed to get permission to use New Zealand racing and sporting information, failed to enter into an agreement in respect of the information use charge, failed to pay an amount owing under the charges, or provided the designated authority with false or incorrect information.

The Bill provides that the Minister must set the specified rate or rates of the charges, and that regulations may be made to specify the penalty rates and the minimum betting revenue that offshore betting operators must receive for a financial year from their betting operations involving New Zealand before becoming liable to pay the charges for that year.

The Bill provides that existing commercial agreements between the Board and offshore betting operators continue to have effect and are not affected by provisions of the Bill. The Bill also provides for the Minister to grant exemptions to specific offshore operators from the requirements to pay either or both of the charges when an agreement is entered into. This provision is intended to minimise the risk of double-charging in circumstances where offshore betting operators enter into separate commercial contracts regarding the use of New Zealand betting information.

The Bill has a safeguard in place to ensure that it does not target offshore betting operators unfairly. The total proportion of revenue or profit required to be paid by offshore betting operators should not exceed the equivalent proportion of revenue or profit that the Board pays to New Zealand racing and sports organisations.

The Bill provides that purposes for which any money received from the charges may be applied include the following:

- promotion of the long-term viability of New Zealand racing and sports;
- covering the cost of administering enforcement and collection of the charges;
- funding measures to prevent and minimise harm from gambling.

In addition to providing for betting information use charges and consumption charges, the Bill also amends the Act to—

- permit the Board to offer in-race betting; and

- allow the Board to enter into betting agreements with Sport and Recreation New Zealand (**Sport NZ**) in circumstances where there is no qualifying national sporting organisation (**NSO**) for a particular sport; and
- permit the Board to make rules declaring sporting events to be or not to be New Zealand sporting events for the purposes of *new Part 6AA* and attracting the charges.

These additional amendments, to enhance the TAB's products and services, also came from recommendations of the Working Group. Permitting in-race betting would enable the Board to compete on a more even basis with offshore betting operators who may already offer this type of product.

The Bill will provide that in-race betting would apply only to bets on the final outcome of a race, as opposed to events within a race (for example, lead changes or horses retiring prematurely). It would therefore not permit new types of gambling and would align racing bets with in-play betting on sports events, which the Board is already allowed to offer.

Currently, betting is permitted on domestic and overseas sporting events only if the Board has a betting agreement with the relevant New Zealand NSO for the sport. The Board therefore cannot offer betting products for sports that may be popular internationally but have limited participation or formal organisation in New Zealand. The Bill will provide that, where sports are not represented by a qualifying domestic NSO, the Board can offer betting if the Board enters into an agreement with Sport NZ. Sport NZ would then determine the distribution of betting income.

The Bill also provides for a regulation-making power to update the formula by which proceeds from betting on New Zealand sporting events are allocated between the racing and sports sectors. Sport NZ and the Board believe that the current formula in the Act for allocating this money is no longer fit for purpose.

Departmental disclosure statement

The Department of Internal Affairs is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2017&no=288>

Regulatory impact statement

The Department of Internal Affairs produced a regulatory impact statement on 3 March 2017 and Sport and Recreation New Zealand also produced a regulatory impact statement to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

Copies of these regulatory impact statements can be found at—

- <https://www.dia.govt.nz/Resource-material-Regulatory-Impact-Statements-Index>
- <http://sportnz.org.nz/news-and-events/media-releases-and-updates/search>
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause and provides that the Bill comes into force on the day after the date on which it receives the Royal assent.

Clause 3 provides that the Bill amends the Racing Act 2003.

Clause 4 replaces the definition of sporting event to take into account the meaning of that term for the purposes of *new Part 6AA*. The clause also extends the definition of New Zealand national sporting organisation in section 55(3) to apply to the whole Act.

Clause 5 inserts *new section 5A*, which gives effect to all transitional, savings, and related provisions arising from this and any subsequent amendment Act. Under the new section, all those provisions will be found in *new Schedule 1AA*.

Clause 6 amends section 50, consequential on the amendment made by *clause 7*.

Clause 7 replaces section 52(3) to remove the current prohibition on betting on the outcome of a race once the race has started.

Clause 8 amends section 54(2) to provide for the Board to declare sporting events to be, or not to be, New Zealand sporting events for the purposes of *new Part 6AA*. The clause also inserts *new subsections (3) and (4)*, which require the Board to consult Sport and Recreation New Zealand before making a declaration and publish the declaration on the Board's Internet site.

Clause 9 inserts *new section 55A*, which enables betting to take place on sporting events held in New Zealand or overseas where the sport concerned is not represented by a sports organisation in New Zealand capable of entering into an agreement with the New Zealand Racing Board (the **Board**) in compliance with section 55. *New section 55A* permits the Board to enter into an equivalent agreement with Sport and Recreation New Zealand in those circumstances.

Clause 10 replaces section 57(1)(d), which currently sets out a formula for calculating the amount that is to be paid to national sporting organisations from money received from sports betting. The replacement provision provides for the necessary formula (or formulas) to be established by regulations.

Clause 11 inserts *new Part 6AA (new sections 65AA to 65AV)*.

New section 65AA sets out the purpose of *new Part 6AA* and provides a broad overview of the Part.

New section 65AB provides for the territorial scope of *new Part 6AA*.

New section 65AC defines terms used in the new Part.

New section 65AD—

- designates the department responsible for the administration of the Act (currently, the Department of Internal Affairs) as the entity responsible for implementing the 2 schemes provided for by the new Part (the **designated authority**). These are the schemes under which offshore betting operators are required to pay charges in New Zealand in respect of their betting operations involving this country (the **scheme for betting information use charges** and the **scheme for consumption charges**):
- provides for the functions and powers of the designated authority.

New section 65AE provides for the designated authority to delegate its functions and powers in respect of either or both schemes, or any parts of the schemes (other than the delegation power itself and the authority's power under *new section 65AR(4)* to review decisions to impose penalties on offshore betting operators).

New section 65AF requires offshore betting operators to obtain permission from the designated authority before using New Zealand racing and sporting information in their betting operations and to enter into an agreement setting out the terms and conditions on which permission is granted (a **betting information use agreement**).

New section 65AG sets out terms and conditions required to be included in a betting information use agreement.

New section 65AH requires the Minister to set the rates of the betting information use charges that offshore betting operators must pay and provides for the manner in which that must be done.

New section 65AI provides for the designated authority's powers to issue legal proceedings to enforce betting information use agreements.

New sections 65AJ to 65AL provide for matters relating to the scheme for consumption charges, including—

- a requirement for offshore betting operators to pay consumption charges:
- a requirement for the Minister to set the rates of those charges and the manner in which that must be done:
- information that offshore betting operators must provide for monitoring purposes.

New section 65AM sets out the basis on which the Minister must set betting information use charges and consumption charges. The clause also provides for matters concerning the process for setting those charges. Under the provision, the Minister must use the proportion of the Board's total racing and sporting revenue or profit that the Board pays to New Zealand racing and sports organisations each financial year as the benchmark for setting the charges. The Minister must try to ensure that the rates set for the 2 charges do not result in offshore betting operators paying, by way of those charges, any greater proportion of their total revenue or profit from betting operations involving New Zealand than the benchmark proportion referred to.

New section 65AMA provides for a minimum threshold of revenue or profit that an offshore betting operator has to receive from its operations involving New Zealand before the operator becomes liable for information use charges and consumption charges. *New section 65AMA* sets the threshold at NZ\$60,000 and provides for this amount to be adjusted by regulations.

New section 65AN restricts the purposes for which the money received from betting information use charges and consumption charges may be applied. Although the money cannot be applied for any purpose other than the 3 purposes specified in the provision, the designated authority can decide whether to apply all or any of that money for one or more of those purposes.

New section 65AO provides for the Minister to exempt offshore betting operators from requirements under the new Part and sets out criteria that must be met in order for an exemption to be granted.

New section 65AP provides for the Minister's powers to vary or revoke an exemption.

New section 65AQ specifies the status of an instrument granting an exemption under the Part for the purposes of certain provisions of the Legislation Act 2012 relating to drafting and publication. The new section declares an exemption notice to be a disallowable instrument but not a legislative instrument for the purposes of that Act. This means that the exemption notice must be presented to the House of Representatives not later than the 16th sitting day of the House after the date on which the exemption is granted. However, the Parliamentary Counsel Office will not draft the exemption notice and will not publish the notice on the official site for New Zealand legislation (<http://www.legislation.govt.nz>) as a legislative instrument. Instead, *new section 65AQ* requires the granting of the exemption to be notified in the *Gazette* and requires the notice itself to be published on the Internet site of the designated authority.

The reasons why the exemptions are disallowable instruments but not legislative instruments are that they affect a narrowly defined group of persons only (betting operators located offshore that take the types of bets involving New Zealand specified in the new Part), the underlying matters to which the exemption powers relate are relatively detailed and technical, and they do not include criminal offence provisions or impose taxes.

New sections 65AR to 65AU provide for the designated authority to impose penalties on offshore betting operators for failing to pay betting information use or consumption charges, or for providing false or incorrect information to the authority, and provide for matters relating to that power, including—

- the maximum amounts of penalties that may be imposed;
- the right for an offshore betting operator to request a review of the authority's decision to impose a penalty and the effect of that request on the betting operator's obligation to pay;
- the legal status of outstanding charges and penalties as debts that the designated authority can issue legal proceedings to recover, the application of New Zealand law in relation to the recovery of those debts, and the jurisdiction of

the courts of New Zealand to hear and determine legal proceedings for their recovery.

New section 65AV is a regulation-making power for the purposes of *new Part 6AA*.

Clause 12 inserts *new Schedule 1AA* (transitional, savings, and related provisions).

Clauses 1 and 2 of Schedule 1AA preserve the rights and obligations of parties to certain agreements that are entered into before *new Part 6AA* comes into force and relate to matters provided for in the new Part.

Hon David Bennett

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	New Schedule 1AA inserted	

The Parliament of New Zealand enacts as follows:**1 Title**

This Act is the Racing Amendment Act **2017**.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent. 5

3 Principal Act

This Act amends the Racing Act 2003 (the **principal Act**).

Part 1**Amendments to preliminary provisions 10****4 Section 5 amended (Interpretation)**

- (1) In section 5(1), insert in its appropriate alphabetical order:

New Zealand national sporting organisation has the same meaning as in section 55(3)

- (2) In section 5(1), replace the definition of **sporting event** with: 15

sporting event means any lawful organised game, competition, or other event involving human competitors, held in or outside New Zealand, in respect of which one of the following applies:

- (a) a New Zealand national sporting organisation administers the sport concerned in New Zealand: 20
- (b) there is a New Zealand national sporting organisation under whose auspices or control the event is conducted (or, in the case of an event held outside New Zealand, under whose auspices or control the event would be conducted if it were held in New Zealand):
- (c) there is an agreement in accordance with **section 55A(2) and (3)** between the Board and Sport and Recreation New Zealand that relates to the sport concerned 25

5 New section 5A inserted (Transitional, savings, and related provisions)

After section 5, insert:

5A Transitional, savings, and related provisions 30

The transitional, savings, and related provisions set out in **Schedule 1AA** have effect according to their terms.

Part 2

Substantive amendments

- 6 Section 50 amended (Board may conduct betting)**
In section 50(b), delete “except as provided in section 55.”.
- 7 Section 52 amended (Board may make rules relating to racing betting)** 5
Replace section 52(3) with:
- (3) The Board’s power to make rules under this section includes the power to make rules that would allow racing betting on the outcome of a race to remain open after the race starts.
- 8 Section 54 amended (Board may make rules relating to sports betting)** 10
- (1) In section 54(2)(c), after “section 58(2)”, insert “; and”.
- (2) After section 54(2)(c), insert:
- (d) may declare sporting events to be, or not to be, New Zealand sporting events for the purposes of **Part 6AA**.
- (3) After section 54(2), insert: 15
- (3) The Board must consult Sport and Recreation New Zealand before exercising its powers under this section to make rules declaring sporting events to be or not to be New Zealand sporting events for the purposes of **Part 6AA**, or to make rules altering or revoking those rules.
- (4) The Board must publish the notice making, altering, or revoking the rules referred to in **subsection (3)** on the Board’s Internet site. 20
- 9 New section 55A inserted (Agreements with Sport and Recreation New Zealand)**
- After section 55, insert:
- 55A Agreements with Sport and Recreation New Zealand** 25
- (1) This section applies if, in relation to a sport involving human competitors participating in lawful organised games, competitions, or other events held in or outside New Zealand, there is no appropriate New Zealand national sporting organisation—
- (a) that administers the sport in New Zealand; or 30
- (b) under whose auspices or control the events held in New Zealand are conducted (or, in the case of events held outside New Zealand, would be conducted if they were held in New Zealand).
- (2) Despite section 55(1), the Board may conduct betting on any event held in relation to the sport concerned if the Board has entered into a sports betting agree- 35

ment with Sport and Recreation New Zealand that complies with the requirements in **subsection (3)**.

- (3) A sports betting agreement between the Board and Sport and Recreation New Zealand must be on the terms and conditions agreed between the parties, including as to payment to Sport and Recreation New Zealand, under **section 57(1)(d)**, of revenue derived from sports betting on the event or events to which the agreement relates. 5

10 Section 57 amended (Application of revenue from sports betting)

Replace section 57(1)(d) with:

- (d) the amounts (not less than the minimum amounts prescribed, or calculated in accordance with the method or methods prescribed, under **section 65AV(1)(a)**) payable to New Zealand national sporting organisations and Sport and Recreation New Zealand under agreements entered into under sections 55 and **55A**; and 10

11 New Part 6AA inserted 15

After section 65, insert:

Part 6AA
Offshore betting operator charges

65AA Purpose and overview of this Part

- (1) This Part relates to the provisions of this Act concerned with ensuring that a proportion of the revenue from racing betting and sports betting conducted by the Board or the Board’s agents on its behalf is paid to racing and sporting organisations in New Zealand. 20
- (2) The purpose of the Part is to provide for a regulatory regime under which offshore betting operators must pay charges in New Zealand in respect of their betting operations involving this country. These charges are to recognise the financial returns that offshore betting operators enjoy from bets that they take on racing and sporting events held in New Zealand and from bets that they take from people located in New Zealand. 25
- (3) To that end, this Part— 30
- (a) provides for a scheme requiring offshore betting operators to—
- (i) obtain permission from a designated authority in New Zealand before using New Zealand racing and sporting information for taking bets on racing events and sporting events taking place in New Zealand; and 35
- (ii) enter into an agreement with that authority setting out the terms and conditions on which the authority’s permission is granted,

	including the offshore betting operator's agreement to pay charges for using that information in the operator's betting operations:	
(b)	establishes a scheme requiring offshore betting operators to pay charges in respect of bets that they take on racing and sporting events from persons located in New Zealand, whether the events are held in or outside New Zealand:	5
(c)	provides for the designated authority, or 1 or more delegates of the authority, to implement each scheme, including collecting the charges payable under the scheme and paying that money for purposes relating to racing and sport in New Zealand.	10
(4)	Subsection (3) is only a guide to the general scheme and effect of this Part.	
65AB Territorial scope		
	This Part and regulations made under section 65AV apply to an offshore betting operator regardless of where that offshore betting operator is resident or incorporated.	15
65AC Interpretation		
	In this Part, unless the context otherwise requires,—	
	betting information use agreement has the meaning set out in section 65AF(1)	
	betting information use charges means the charges payable under a betting use information agreement under section 65AG(a)	20
	consumption charges means the charges payable in accordance with sections 65AJ to 65AMA	
	Department means the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act	25
	designated authority means the Department or, if the Department has delegated functions or powers to another entity under section 65AE then, in relation to those functions or powers, that delegate	
	New Zealand racing and sporting information means information relating to any New Zealand racing event or New Zealand sporting event on which betting may occur	30
	New Zealand racing event means a betting race held in New Zealand	
	New Zealand sporting event means a sporting event—	
(a)	held in New Zealand; and	35
(b)	declared by rules made under section 54(2)(d) to be a New Zealand sporting event for the purposes of this Part; and	
(c)	in respect of which one of the following applies:	

- (i) the event is held under the auspices or control of a New Zealand national sporting organisation;
- (ii) there is an agreement in accordance with **section 55A** between the Board and Sport and Recreation New Zealand in respect of the sport concerned

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offshore betting operator means a person who is located outside New Zealand and who—

- (a) takes bets on New Zealand racing events or New Zealand sporting events (whether from persons located in or outside New Zealand); or
- (b) takes bets on racing and sporting events from persons located in New Zealand (whether the events are held in or outside New Zealand)

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scheme for betting information use charges means the scheme referred to in **section 65AA(3)(a)**

scheme for consumption charges means the scheme referred to in **section 65AA(3)(b)**.

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Designated authorities

65AD Designated authority for each scheme

- (1) The Department is the designated authority for the scheme for betting information use charges and the designated authority for the scheme for consumption charges.
- (2) The functions of the designated authority for each scheme are to implement the scheme, including enforcing payment of the charges and distributing the charges, in accordance with this Part.
- (3) The designated authority has the powers specified in, or prescribed under, this Part.

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65AE Ability to delegate

- (1) The Department may delegate in writing any of its functions or powers as a designated authority to another entity.
- (2) The Department's power to delegate under this section may be exercised in respect of the scheme for information use charges or the scheme for consumption charges, or both or any part of those schemes.
- (3) The entities to which the Department may delegate its functions and powers include, without limitation, the Board, a Crown entity as defined in section 7 of the Crown Entities Act 2004, or another department.
- (4) The Department must, when deciding whether to exercise its power of delegation under this section in favour of another entity, take into account whether the entity has the knowledge of offshore betting operators, and existing relation-

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ships with those operators, that is necessary to perform the functions and exercise the powers that the Department proposes to delegate.

- (5) A delegation under this section must not include—
- (a) the power to delegate under this section:
 - (b) the power to review a decision to issue a penalty notice under **section 65AR(4)(b)**. 5

Betting information use charges

65AF Requirements on offshore betting operators before using New Zealand racing and sporting information

- (1) Every offshore betting operator must, before using New Zealand racing and sporting information in the conduct of the operator's betting operations, obtain permission from the designated authority and enter into an agreement in accordance with **section 65AG** (a **betting information use agreement**). 10
- (2) The requirements in **subsection (1)** do not apply to an offshore betting operator if, and to the extent that, the betting operator is exempted from compliance with those requirements under **section 65AO**. 15

65AG Terms and conditions of betting information use agreement

The terms and conditions of a betting information use agreement must—

- (a) require the offshore betting operator to pay betting information use charges for the operator's use of New Zealand racing and sporting information; and 20
- (b) require the offshore betting operator to provide prescribed information, in the prescribed manner, to the designated authority for the purpose of enabling the authority to monitor the amounts due as betting information use charges; and 25
- (c) provide that the betting information use charges payable under the agreement are recoverable as a debt due to the designated authority under the agreement; and
- (d) provide that the law applicable to the agreement is New Zealand law; and 30
- (e) provide for a dispute resolution process that the parties agree to submit to if they have a dispute relating to the agreement; and
- (f) provide that the courts of New Zealand are the courts with jurisdiction to hear and determine any proceedings relating to the agreement if the parties are unable to resolve a dispute through the dispute resolution process; and 35

- (g) provide that the offshore betting operator submits to the jurisdiction of the courts of New Zealand for the purposes of any proceedings referred to in **paragraph (f)**; and
- (h) provide for any additional matters that may be prescribed.

65AH Minister must set rates of betting information use charges 5

- (1) The Minister must set the rates of the betting information use charges that offshore betting operators must pay.
- (2) The Minister may set the rates by way of specified figures or methods of calculation.
- (3) The Minister must set the rates— 10
 - (a) in accordance with **section 65AM**; and
 - (b) in the prescribed manner.

65AI Powers to enforce betting information use agreement

The designated authority may issue and conduct proceedings for—

- (a) determining any dispute relating to a betting information use agreement in accordance with the terms of agreement referred to in **section 65AG(f)**: 15
- (b) enforcing any provisions of a betting information use agreement that do not fall within the power of the designated authority to issue proceedings under **section 65AT** (which provides powers for the authority to recovering unpaid charges and penalties). 20

Consumption charges

65AJ Requirement to pay consumption charges

Every offshore betting operator must pay consumption charges in respect of bets that they take on racing events and sporting events, held in or outside New Zealand, from persons located in New Zealand. 25

65AK Minister must set rates of consumption charges

- (1) The Minister must set the rates of the consumption charges that offshore betting operators must pay.
- (2) The Minister may set the rates by way of specified figures or methods of calculation. 30
- (3) The Minister must set the rates—
 - (a) in accordance with **section 65AM**; and
 - (b) in the prescribed manner.

65AL Information to be provided relating to consumption charges

- (1) An offshore betting operator who is required to pay consumption charges must provide the prescribed information to the designated authority for the purpose of enabling the authority to monitor the amounts due as consumption charges.
- (2) The information must be provided in the prescribed manner. 5

*Limits on betting information use and consumption charges payable***65AM Limit on proportion of revenue or profit payable as information use and consumption charges**

- (1) Betting information use charges and consumption charges must be set by reference to the proportion of revenue or profit that the Board pays to New Zealand racing and sports organisations under this Act or under funding agreements between the Board and New Zealand racing and sporting organisations in accordance with this Act. 10
- (2) In setting the rates of the charges, the Minister must seek to ensure that the total betting information use charges and consumption charges payable by offshore betting operators for a financial year, as a proportion of the total revenue or profit received that year from the bets to which those charges relate, is not greater than the total payments that the Board makes to New Zealand racing and sports organisations for a financial year, as a proportion of the Board's total revenue or profit received that year from racing betting and sports betting conducted by the Board or its agents on behalf of the Board. 15
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- (3) The Minister must, at least once every 3 years, review the rates set under **subsection (1)** and may, if necessary, adjust those rates so that they meet the requirements under **subsections (1) and (2)**. 10
- (4) Any adjustment must be made in the prescribed manner. 25
- (5) In setting the rates, or adjusting any rate, the Minister must take into account the advice of the Board.

65AMA Certain offshore betting operators not liable for charges

- (1) An offshore betting operator is not liable to pay betting information use charges or consumption charges in respect of a financial year if the operator's betting revenue for that year is less than the minimum betting revenue. 30
- (2) In **subsection (1)**, **minimum betting revenue** means NZ\$60,000, or such other amount as may be prescribed by regulations made under **section 65AV(1)(e)**, of betting revenue (as determined in accordance with the method for calculating revenue prescribed by regulations made under **section 65AV(1)(f)**) that an offshore betting operator receives in a financial year from both of the following: 35
 - (a) bets taken on New Zealand racing events and New Zealand sporting events (whether from persons located in or outside New Zealand); and

- (b) bets taken on racing and sporting events from persons located in New Zealand (whether the events are held in or outside New Zealand).

Application of money from charges

65AN Application of money received from charges

The designated authority may only apply the money received from betting information use charges and consumption charges for the following purposes: 5

- (a) paying the cost of administering the enforcement and collection of the betting information use charges, consumption charges, and penalties:
- (b) promoting the long-term viability of New Zealand racing and sports:
- (c) funding measures to prevent and minimise harm from gambling. 10

Exemptions

65AO Minister may grant exemptions

- (1) The Minister may, by notice in writing, exempt an offshore betting operator or a class of offshore betting operators (on terms and conditions, if any) from the need to comply with any 1 or more of the following: 15
 - (a) the requirement under **section 65AF** to obtain permission from the designated authority before using New Zealand racing and sporting information:
 - (b) the requirement under **section 65AF** to enter into a betting information use agreement before using New Zealand racing and sporting information: 20
 - (c) the requirement under a betting information use agreement to pay betting information use charges:
 - (d) the requirement under **section 65AL** to pay consumption charges.
- (2) In deciding whether to grant an exemption, the Minister must— 25
 - (a) have regard to the purpose of this Act set out in section 3 and the purpose of this Part set out in **section 65AA**; and
 - (b) in the case of an exemption under **subsection (1)(b)**, be satisfied that—
 - (i) the designated authority (or, as applicable, the Board, a racing code, a national sporting organisation, or Sport and Recreation New Zealand) and the offshore betting operator are parties to an agreement negotiated outside the regulatory regime provided for in this Part; and 30
 - (ii) under the terms of the agreement, the designated authority (or any other applicable entity referred to in **subparagraph (i)**) receives from the offshore betting operator not less than the amount of 35

income that the authority would receive from that offshore betting operator under this Part were the exemption not granted; and	
(c) be satisfied that the exemption will not unduly negatively affect, or be detrimental to, the long-term viability of New Zealand racing and sports; and	5
(d) consult the Board and take the Board's advice into account; and	
(e) consult the racing codes, the relevant New Zealand national sporting organisation, and Sport and Recreation New Zealand.	
65AP Minister may vary or revoke exemption	
The Minister may vary or revoke an exemption under section 65AO in the same way as an exemption may be granted under that section.	10
65AQ Status and publication of exemptions	
(1) For the purposes of the Legislation Act 2012, an exemption granted under section 65AO —	
(a) is a disallowable instrument and must be presented to the House of Representatives under section 41 of that Act; and	15
(b) is not a legislative instrument.	
(2) An exemption must, as soon as practicable after being granted, be—	
(a) published on an Internet site maintained by or on behalf of the Department; and	20
(b) notified in the <i>Gazette</i> .	
(3) Despite subsection (2)(a) , the Minister may, if satisfied that an exemption contains or refers to information that may reasonably be regarded as confidential or commercially sensitive, authorise the designated authority to redact that information from the Internet publication.	25
(4) A notification in the <i>Gazette</i> for the purpose of subsection (2)(b) does not need to include the text of the exemption.	
<i>Penalties</i>	
65AR Penalties	
(1) A designated authority may issue a penalty notice to an offshore betting operator if the designated authority is satisfied that the offshore betting operator has—	30
(a) failed to pay an amount of a betting information use charge or consumption charge on or before the date on which the charge was due and payable under the regulations; or	35
(b) provided false or incorrect information to the designated authority about the amount of a charge that the offshore betting operator is due to pay.	

- (2) The penalty notice may require the offshore betting operator to—
- (a) pay to the designated authority as a penalty, and in addition to the amount of the charges outstanding, the amount referred to in **subsection (3)**; and
 - (b) make that payment by the date specified in the notice. 5
- (3) The penalty amount stated in the notice must be the amount specified in, or the amount calculated in accordance with, regulations made under **section 65AV(1)(g)**.
- (4) An offshore betting operator issued with a penalty notice under this section—
- (a) must pay the penalty: 10
 - (b) may request the designated authority to review the decision to issue the notice.
- (5) A penalty notice under this section must be in the prescribed form (if any) and issued in the prescribed manner.
- 65AS Maximum amount of penalties** 15
- The amount payable as a penalty under regulations made under **section 65AV(1)(g)**, whether the regulations specify a fixed amount or method of calculating the amount, must not be greater than—
- (a) NZ\$20,000, in the case of an offshore betting operator who is an individual; or 20
 - (b) NZ\$50,000, in the case of an offshore betting operator that is a body corporate.
- 65AT Status and recovery of outstanding charges and penalties**
- (1) Outstanding betting information use charges, consumption charges, and penalties payable by an offshore betting operator constitute a debt due to the designated authority, and the authority may issue legal proceedings for recovery of the debt from the offshore betting operator. 25
 - (2) The applicable law in respect of recovery of the debt is New Zealand law.
 - (3) The courts of New Zealand are the courts with jurisdiction to hear and determine proceedings for recovery of the debt. 30
- 65AU Obligation to pay penalty not suspended by review or legal proceedings**
- (1) An offshore betting operator’s obligation to pay, and the designated authority’s right to receive and recover, a penalty imposed are not suspended by a request for review under **section 65AR(4)(b)** or any legal proceedings relating to the penalty. 35
 - (2) **Subsection (3)** applies if an offshore betting operator pays the amount of a penalty imposed and, on review or in legal proceedings, it is found that the betting operator was not liable for that penalty or part of the penalty.

- (3) The designated authority must, as soon as practicable, refund to the offshore betting operator the amount of the penalty or part of the penalty for which the offshore betting operator was not liable.

Regulations

65AV Regulations for this Part

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- (1) The Governor-General may, by Order in Council on the recommendation of the Minister in accordance with **subsection (4)**, make regulations for all or any of the following purposes:
- (a) prescribing minimum amounts, or the method or methods to be used for calculating minimum amounts, for the purposes of **section 57(1)(d)**: 10
 - (b) prescribing the financial or other relevant information that an offshore betting operator must provide to the designated authority, the manner in which that information is to be provided (including how the information must be presented, calculated, or prepared), and when the information must be provided for the purposes of **section 65AG(b)**: 15
 - (c) prescribing the financial or other relevant information that an offshore betting operator must provide to the designated authority, the manner in which that information is to be provided (including how the information must be presented, calculated, or prepared), and when the information must be provided for the purposes of **section 65AL**: 20
 - (d) prescribing the manner in which rates and adjustments to rates must be set for the purposes of **sections 65AK and 65AM**:
 - (e) prescribing the amount of the minimum betting revenue for the purposes of **section AMA(1)**:
 - (f) prescribing the method for calculating betting revenue for the purposes of **section AMA(2)**: 25
 - (g) specifying penalty amounts or the method by which penalty amounts must be calculated for the purposes of **section 65AR(3)**:
 - (h) prescribing the form of penalty notices for the purposes of **section 65AR(5)**: 30
 - (i) prescribing the manner in which penalty notices must be issued for the purposes of **section 65AR(5)**:
 - (j) prescribing the manner in which any other thing must be done for the purposes of this Part:
 - (k) prescribing fees and charges payable in respect of any matter under this Part or the manner in which fees and charges must be calculated: 35
 - (l) providing for any other matters contemplated by this Part, necessary for its administration, or necessary for giving it full effect.

- (2) Regulations made under this section may provide differently for different classes of offshore betting operator.
 - (3) Regulations made under this Part are not invalid merely because they confer any discretion on, or allow any matter to be determined or approved by, any person. 5
 - (4) The Minister, before making a recommendation relating to regulations under this Part, must consult the Board, Sport and Recreation New Zealand, and,—
 - (a) if the regulations relate to racing betting, the racing codes; and
 - (b) if the regulations relate to sports betting, New Zealand national sporting organisations that have entered into agreements under sections 55 and 10
- 55A.**

12 New Schedule 1AA inserted

Insert the **Schedule 1AA** set out in **Schedule 1** of this Act as the first schedule to appear after the last section of the principal Act.

Schedule 1
New Schedule 1AA inserted

s 12

Schedule 1AA
Transitional, savings, and related provisions

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s 5A

Part 1
Provisions relating to Racing Amendment Act 2017

1 Transitional provision

Despite **section 10** of the Racing Amendment Act **2017** (the **Amendment Act**), **section 57(1)(d)**, as in force immediately before the commencement of the Amendment Act, continues to apply for the period starting on the date on which the Amendment Act comes into force and ending on the date on which regulations made under **section 65AV(1)(a)** come into force.

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2 Savings provision for certain existing provisions

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(1) In this clause, **pre-existing betting information use agreement** means an agreement between the Board and an Australian agency that confers rights on a betting operator located in Australia to use New Zealand racing and sporting information in the conduct of the operator's betting operations in respect of racing and sporting events held in New Zealand.

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(2) **Part 6AA** does not affect a pre-existing betting information use agreement that is in force immediately before the commencement of **Part 6AA**, and any such agreement continues in force, on and from the date of that commencement, according to its tenor.