

# GAMING DUTIES BILL

## EXPLANATORY NOTE

THIS Bill consolidates with amendments the provisions of Parts X and XI of the Stamp Duties Act 1954, which relate to totalisator duty and lottery duty, and the amendments of those Parts.

*Clause 1* relates to the Short Title and commencement, and declares that the Act will be one of the Inland Revenue Acts within the meaning of the Inland Revenue Department Act 1952. The provisions relating to totalisator duty will be deemed to have come into force on 1 August 1971, and the provisions relating to lottery duty will be deemed to have come into force on 1 April 1971.

*Clause 2* is the application clause. It provides that—

- (a) The provisions as to totalisator duty will apply to all race meetings held on or after 1 August 1971 and to all special investments received by the Totalisator Agency Board on races run on or after that date or on a double where the first race is run on or after that date.
- (b) The provisions as to lottery duty will apply to all lotteries drawn on or after 1 April 1971.

*Clause 3* is the interpretation clause.

The only material change in any of the definitions in this clause is in the definition of "lottery", which is defined as a lottery promoted by the Minister of Internal Affairs under Part I of the Gaming Amendment Act 1962, that is, a Golden Kiwi or Mammoth lottery. This gives effect to the announcement in the Budget that only Golden Kiwi and Mammoth lotteries will be liable for lottery duty and all other lotteries will be exempt.

## PART I

### TOTALISATOR DUTY

*Clause 4* re-enacts the existing provisions that totalisator duty at the rate of 9.32 percent is payable in respect of the gross investments (as defined in *clause 2*) in respect of each race at every race meeting conducted by a racing club (which term includes a trotting club and a hunt club) and in respect of special investments (as defined in *clause 2*) received by the Totalisator Agency Board.

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*Subclause (2)* also re-enacts the existing provisions that a racing club may deduct from the amount of totalisator duty otherwise payable by the club in any year an amount equal to  $2\frac{1}{2}$  percent of the first \$100,000 of the gross investments received by the club in that year.

*Clause 5* requires returns to be furnished to the Commissioner of Inland Revenue by each racing club and by the Totalisator Agency Board. It re-enacts the existing provisions that the returns must be furnished within 7 days after the conclusion of the race meeting or, in the case of duty payable by the Board, 7 days after the date on which the race was run or, in the case of doubles investments, after the date on which the first race of the double is run.

*Clause 6* re-enacts without material change the existing provisions requiring racings clubs to pay totalisator duty to the Crown within 7 days after the conclusion of the meeting.

*Clause 7* re-enacts the existing provisions that the Totalisator Agency Board is to pay to the Crown the totalisator duty payable in respect of special investments received by the Board. Payment must be made within 7 days after the race on which the investments were received or, in the case of a double, within 7 days after the first race.

*Clause 8* re-enacts the existing provisions requiring payment of interest on totalisator duty that is not paid within 1 month after the date on which it is due.

## PART II

### LOTTERY DUTY

*Clause 9* re-enacts the existing provisions that lottery duty at the rate of 10 percent of the nominal value of all tickets represented in the drawing of any lottery is payable to the Crown. As mentioned in the note on *clause 2*, lottery duty will be payable only in respect of Golden Kiwi and Mammoth lotteries.

*Clause 10* is new. It requires the organiser of any lottery to furnish a return to the Commissioner of Inland Revenue. The Commissioner may exempt any organiser from compliance with this requirement.

*Clause 11* re-enacts the existing provisions requiring the organiser of a lottery to pay the lottery duty to the Commissioner within 14 days after the date of the drawing of the lottery.

*Clause 12* re-enacts the existing provisions requiring payment of interest on lottery duty that is not paid within 1 month after the date on which it is due.

## PART III

### MISCELLANEOUS PROVISIONS

*Clause 13* provides for the making of refunds of totalisator duty or lottery duty paid in error or in excess. It is to the same effect as provisions in the Stamp Duties Act 1954 relating to refunds of duty, except that a refund may be made within 8 years after the payment of duty instead of within 6 years.

*Clause 14* provides that any duty or interest payable under the Bill may be recovered by the Commissioner on behalf of the Crown, by action in his official name. It is to the same effect as provisions in the Stamp Duties Act 1954 relating to the recovery of duty.

*Clause 15* relates to offences, and is largely new. The only existing offence provision is in section 168 (3) of the Stamp Duties Act 1954 which makes officers of racing clubs liable to a fine of \$40 if the club fails to make a return or makes an erroneous or misleading return.

The offences prescribed in this clause are as follows:

- (a) Wilfully or negligently giving false information to, or misleading or attempting to mislead, the Commissioner or any officer of the Inland Revenue Department. The maximum penalty is a fine of \$1,000.
- (b) Failure by a racing club to furnish a return or to comply with *clause 6 (2)* (requiring the deduction on the day of a meeting of totalisator duty received on that day and its payment to the Commissioner or into a trust account at a bank). The maximum penalty is a fine of \$200.
- (c) Failure by the organiser of a lottery to furnish a return. The maximum penalty is a fine of \$200.

*Subclause (4)* re-enacts the existing provisions in the Stamp Duties Act 1954 that proceedings for an offence may be commenced within 4 years after the commission of the offence.

*Clause 16* provides for consequential amendments.

*Clause 17* provides for repeals and savings.

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(2) Part I of this Act, Part III of this Act so far as it relates to totalisator duty, and the First Schedule to this Act shall be deemed to have come into force on the 1st day of August 1971.

(3) Part II of this Act, Part III of this Act so far as it relates to lottery duty, and the Second Schedule to this Act shall be deemed to have come into force on the 1st day of April 1971. 5

(4) This Act is hereby declared to be one of the Inland Revenue Acts within the meaning of the Inland Revenue Department Act 1952, and the First Schedule to that Act is hereby amended by inserting a reference to this Act. 10

**2. Application**—(1) This Act shall, with respect to totalisator duty, apply to—

(a) All race meetings held on or after the 1st day of August 1971; and 15

(b) All special investments received by the Totalisator Agency Board on any race run on or after that date, or on a double where the first race is run on or after that date. 20

(2) This Act shall, with respect to lottery duty, apply to all lotteries drawn on or after the 1st day of April 1971.

**3. Interpretation**—In this Act, unless the context otherwise requires,—

“Commissioner” means the Commissioner of Inland Revenue as defined in the Inland Revenue Department Act 1952: 25

“Gross investments” means the aggregate of all investments registered on the totalisator, including all investments received at any office or agency of the Totalisator Agency Board and registered as aforesaid: 30

“Lottery” means a lottery promoted by the Minister of Internal Affairs under Part I of the Gaming Amendment Act 1962:

“Organiser”, in relation to a lottery, means the person appointed by the Minister of Internal Affairs to conduct that lottery: 35

“Prescribed”, in relation to any form, means prescribed either by the Commissioner or by regulations made under the Inland Revenue Department Act 1952: 40

“Race” means a horse race or a trotting race:

“Race meeting” includes a trotting meeting and a hunt club meeting:

“Racing club” means any racing club, trotting club, or hunt club, which in each case is licensed to use the totalisator under the Gaming Act 1908:

5 “Special investments” means the amount invested with the Totalisator Agency Board under section 2 of the Gaming Amendment Act 1967, as ascertained in accordance with paragraph (a) of subsection (3) of that section:

10 “Year” means a period of 12 months ending with the 31st day of July.

Cf. 1954 No. 52, ss. 2, 164, 165 (5), 172 (1), (1A); 1962, No. 114, s. 43; 1967, No. 8, s. 2

## PART I

### TOTALISATOR DUTY

15 **4. Totalisator duty**—(1) There shall be paid to the Crown a duty (in this Act referred to as totalisator duty) at the rate of 9.32 percent of—

- (a) The gross investments in respect of each race at every race meeting conducted by any racing club; and  
20 (b) The special investments received by the Totalisator Agency Board.

(2) Notwithstanding subsection (1) of this section, an amount equal to  $2\frac{1}{2}$  percent of the first \$100,000 of the gross investments received by each racing club in any one year  
25 shall be deducted by the racing club from the amount of totalisator duty otherwise payable by the club in that year.

Cf. 1954, No. 52, s. 165 (1), (2), (3); 1965, No. 21, s. 3 (1); 1967, No. 8, s. 2; 1967 No. 39, s. 2 (4)

**5. Return to be furnished to Commissioner**—(1) Every  
30 racing club shall, within 7 days after the day on which any race meeting is held, or, in the case of a meeting held on 2 or more days, the last day of that meeting, deliver to the Commissioner a statement in the prescribed form of the totalisator duty payable by the club in respect of all races  
35 at that meeting.

(2) The Totalisator Agency Board shall, within 7 days after the date on which the race on which any special investments were received was run, or, in the case of special investments received on a double, within 7 days after the date on which the first race of the double was run, deliver to the Commissioner a statement in the prescribed form of the totalisator duty payable by the Board in respect of those special investments. 5

Cf. 1954, No. 52, s. 168 (1), (2); 1967, No. 39, s. 2 (4)

**6. Payment of totalisator duty by racing club—**(1) The totalisator duty payable under section 4 of this Act in respect of the gross investments at any race meeting shall be paid by the racing club to the Commissioner within the time specified in subsection (1) of section 5 of this Act for the delivery of the statement of the totalisator duty payable. 15

(2) Out of the money received by a racing club from all sources in respect of each day of any race meeting there shall, on that day, be deducted the amount of totalisator duty payable by the racing club in respect of all races held on that day, and the money so deducted shall be forthwith paid by the club to the Commissioner, or shall be paid into a bank to a trust account, and shall not be paid out of any such trust account, except for the purpose of payment of the duty. 20

(3) Totalisator duty payable by any racing club shall constitute a debt due and payable to the Crown by that club. 25

(4) If any totalisator duty is not paid by any racing club within the time specified in subsection (1) of this section, it shall also constitute a debt due and payable to the Crown, jointly and severally,—

(a) In the case of an incorporated racing club, by all persons who, at any time during the race meeting in respect of which the duty is payable, were officers, trustees, or other persons acting in the management of the club, including the secretary and treasurer thereof: 35

(b) In the case of an unincorporated racing club, by all persons who, at any time during the race meeting in respect of which the duty is payable, were members, officers, or trustees of the club.

Cf. 1954, No. 52, ss. 165 (4), 169, 170; 1965, No. 21, s. 4 (2); 1967, No. 8, ss. 2, 3 (2), (3) 40

**7. Payment of totalisator duty by the Totalisator Agency Board**—(1) The totalisator duty payable under section 4 of this Act in respect of special investments shall be paid by the Totalisator Agency Board to the Commissioner within the  
5 time specified in subsection (2) of section 5 of this Act for the delivery of the statement of the totalisator duty payable.

(2) Totalisator duty payable by the Totalisator Agency Board shall constitute a debt due and payable to the Crown by the Board.

10 Cf. 1967, No. 39, s. 2 (4)

**8. Interest on unpaid totalisator duty**—(1) Interest at the rate of 5 percent for every month or part of a month shall be payable on the amount of all totalisator duty unpaid within  
15 1 month after the time specified in subsection (1) of section 6 or, as the case may be, subsection (1) of section 7 of this Act, and shall be calculated from the expiration of the time specified in the said subsection (1) of section 6 or, as the case may be, subsection (1) of section 7.

(2) For the purposes of recovery, all interest payable under  
20 this section shall be deemed to be totalisator duty.

Cf. 1954, No. 52, s. 171; 1965, No. 21, s. 4 (3); 1967, No. 8, s. 3 (4)

## PART II

### LOTTERY DUTY

25 **9. Lottery duty**—There shall be paid to the Crown a duty (in this Act referred to as lottery duty) at the rate of 10 percent of the nominal value of all tickets represented in the drawing of any lottery, whether the tickets have been disposed of by sale or otherwise.

30 Cf. 1954, No. 52, s. 172 (2)

**10. Return to be furnished to Commissioner**—The organiser of a lottery shall, within 14 days after the date of the drawing of the lottery, deliver to the Commissioner a statement in the prescribed form of the lottery duty payable in  
35 respect of that lottery:

Provided that the Commissioner may, pursuant to any special arrangement, exempt in writing, either absolutely or conditionally, any organiser from compliance with the foregoing provisions of this section in respect of any lottery or  
40 series of lotteries.



**11. Payment of lottery duty—**(1) The lottery duty payable in respect of each lottery shall be paid by the organiser of that lottery to the Commissioner within 14 days after the date of the drawing of the lottery.

(2) Lottery duty payable by the organiser of any lottery shall constitute a debt due and payable to the Crown by the organiser. 5

Cf. 1954, No. 52, s. 172 (3)

**12. Interest on unpaid lottery duty—**(1) Interest at the rate of 5 percent for every month or part of a month shall be payable on the amount of all lottery duty unpaid within 1 month after the time specified in subsection (1) of section 11 of this Act, and shall be calculated from the expiration of the time specified in that subsection. 10

(2) For the purposes of recovery, all interest payable under this section shall be deemed to be lottery duty. 15

Cf. 1954, No. 52, s. 172 (6)

### PART III

#### MISCELLANEOUS PROVISIONS

**13. Refund of duty or interest paid in error or in excess—** 20  
(1) Where, at any time within 8 years after the date of payment, or if application for the refund is made in writing within that period, the Commissioner is satisfied that any duty or interest payable under this Act or any previous Act imposing totalisator duty or lottery duty has been paid in error or excess, he may refund the amount paid in error or the excess to the person entitled. 25

(2) All money payable under this section by way of refund of duty or interest shall be paid out of the Consolidated Revenue Account without further appropriation than this Act. 30

Cf. 1954, No. 52, ss. 6, 41

**14. Duty recoverable by Commissioner in his official name—**Any duty payable under this Act may be recovered by the Commissioner, on behalf of the Crown, by action in his official name in any Court of competent jurisdiction against any person liable to pay that duty. 35

Cf. 1954, No. 52, s. 13 (2)

5 **15. Offences**—(1) Any person who wilfully or negligently gives any false information to, or misleads or attempts to mislead, the Commissioner or any officer of the Inland Revenue Department in relation to any duty or interest payable under this Act is liable on summary conviction to a fine not exceeding \$1,000.

10 (2) Any racing club which fails to comply with subsection (1) of section 5 or subsection (2) of section 6 of this Act is liable on summary conviction to a fine not exceeding \$200.

(3) Any organiser of any lottery who fails to comply with section 10 of this Act is liable on summary conviction to a fine not exceeding \$200.

15 (4) Notwithstanding anything in section 14 of the Summary Proceedings Act 1957, any information in respect of an offence against this Act may be laid at any time within 4 years after the time when the matter of the information arose.

Cf. 1954, No. 52, ss. 8, 168 (3)

20 **16. Consequential amendments**—(1) Section 35 of the Gaming Act 1908 is hereby consequentially amended by repealing paragraph (a) of subsection (1) (as substituted by section 2 (1) of the Gaming Amendment Act 1968), and substituting the following paragraph:

25 “(a) Totalisator duty payable under subsection (1) of section 4 of the Gaming Duties Act 1971 in respect of the gross investments received on each race; and”.

30 (2) Section 2 of the Gaming Amendment Act 1967 is hereby consequentially amended by repealing subparagraph (i) of paragraph (b) of subsection (3), and substituting the following subparagraph:

“(i) Totalisator duty payable under subsection (1) of section 4 of the Gaming Duties Act 1971 on the amount so ascertained; and”.

35 **17. Repeals and savings**—(1) The enactments specified in the First and Second Schedules to this Act are hereby repealed.

(2) Notwithstanding the provisions of subsection (1) of this section,—

- (a) The enactments specified in the First Schedule to this Act shall continue to apply with respect to—
- (i) All race meetings held before the 1st day of August 1971:
  - (ii) All special investments received by the Totalisator Agency Board on any race run before the 1st day of August 1971 or on a double where the first race is run before that date: 5
- (b) The enactments specified in the Second Schedule to this Act shall continue to apply with respect to all 10 lotteries drawn before the 1st day of April 1971, being lotteries of any kind to which Part XI of the Stamp Duties Act 1954 applied immediately before that date.

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## SCHEDULES

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Section 17 (1)

## FIRST SCHEDULE

ENACTMENTS RELATING TO TOTALISATOR DUTY REPEALED  
(FROM 1 AUGUST 1971)

- 1954, No. 52—The Stamp Duties Act 1954: Part X. (Reprinted, 1964, Vol. 3, p. 2299.)
- 1965, No. 21—The Stamp Duties Amendment Act 1965: Section 4.
- 1966, No. 29—The Inland Revenue Department Amendment Act 1966: So much of the Schedule as relates to sections 165, 166, 168, and 170 of the Stamp Duties Act 1954.
- 1967, No. 8—The Stamp Duties Amendment Act 1967: Sections 2, 3, and 5.

Section 17 (1)

## SECOND SCHEDULE

ENACTMENTS RELATING TO LOTTERY DUTY REPEALED  
(FROM 1 APRIL 1971)

- 1954, No. 52—The Stamp Duties Act 1954: Part XI. (Reprinted, 1964, Vol. 3, p. 2302.)
- 1961, No. 55—The Stamp Duties Amendment Act 1961: Section 12.
- 1962, No. 114—The Gaming Amendment Act 1962: Section 43.
- 1965, No. 21—The Stamp Duties Amendment Act 1965: Section 5.
- 1966, No. 29—The Inland Revenue Department Amendment Act 1966: So much of the Schedule as relates to section 172 of the Stamp Duties Act 1954.