



Australian Capital Territory

# Betting Operations Tax Act 2018

A2018-35

## Contents

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	Page
<b>Part 1</b>	<b>Preliminary</b>
1	Name of Act 2
2	Commencement 2
3	Dictionary 2
4	Notes 2
5	Offences against Act—application of Criminal Code etc 3
<b>Part 2</b>	<b>Betting operations tax</b>
6	When is a bet an <i>ACT bet</i> ? 4
7	Meaning of <i>net ACT betting revenue</i> 4
8	Meaning of <i>threshold amount</i> 5
9	Amount of bet 5

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Authorised by the ACT Parliamentary Counsel—also accessible at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)

## Contents

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	Page	
10	Liability to pay betting operations tax	6
11	Registration of betting operator liable to pay betting operations tax	6
12	Returns	7
13	Information to be included in return	8
14	Monthly returns—lodgment variation	9
<b>Part 3</b>	<b>Miscellaneous</b>	
15	Regulation-making power	10
<b>Part 4</b>	<b>Consequential amendments</b>	
16	Taxation Administration Act 1999 New section 4 (aa)	11
<b>Dictionary</b>		12



Australian Capital Territory

# **Betting Operations Tax Act 2018**

**A2018-35**

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An Act for a betting operations tax, and for other purposes

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The Legislative Assembly for the Australian Capital Territory enacts as follows:

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Betting Operations Tax Act 2018*.

*Note* This Act is a **tax law** under the *Taxation Administration Act 1999*. As a tax law, this Act is subject to provisions of the *Taxation Administration Act 1999* about the administration and enforcement of tax laws generally.

### 2 Commencement

This Act commences on 1 January 2019.

*Note* The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](#), s 75 (1)).

### 3 Dictionary

The dictionary at the end of this Act is part of this Act.

*Note 1* The dictionary at the end of this Act defines certain terms used in this Act, and includes references (**signpost definitions**) to other terms defined elsewhere.

For example, the signpost definition ‘**commissioner**—see the *Taxation Administration Act 1999*, dictionary.’ means that the term ‘commissioner’ is defined in that dictionary and the definition applies to this Act.

*Note 2* A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see [Legislation Act](#), s 155 and s 156 (1)).

### 4 Notes

A note included in this Act is explanatory and is not part of this Act.

*Note* See the [Legislation Act](#), s 127 (1), (4) and (5) for the legal status of notes.

## 5 Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

*Note 1 Criminal Code*

The [Criminal Code](#), ch 2 applies to all offences against this Act (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

*Note 2 Penalty units*

The [Legislation Act](#), s 133 deals with the meaning of offence penalties that are expressed in penalty units.

## Part 2 Betting operations tax

### 6 When is a bet an *ACT bet*?

- (1) For this Act, a bet is an *ACT bet* if the bet is placed with a betting operator by a person located in the ACT when the bet is placed.
- (2) For subsection (1), a person is taken to be located in the ACT when a bet is placed if—
  - (a) the person is present in the ACT when the bet is placed; or
  - (b) if the betting operator does not know the person's location when the bet is placed and the person is required to register an address with the operator before placing a bet with the operator—the person's registered address is located in the ACT.

### 7 Meaning of *net ACT betting revenue*

In this Act:

*net ACT betting revenue*, for a financial year, is worked out as follows:

$$(TB + TF) - (W + PC)$$

*PC* means the total of any—

- (a) refunds of ACT bets made by the betting operator during the financial year; and
- (b) prescribed costs paid by the betting operator during the financial year.

*TB* means the total amount of all ACT bets placed with, or using a service provided by, the betting operator during the financial year.

*TF* means the total of any fees, commissions, or other amounts prescribed by regulation, associated with placing bets or using the service, paid to the betting operator during the financial year.

*W* means the total amount of all winnings paid or payable by the betting operator in relation to ACT bets during the financial year.

## 8 **Meaning of *threshold amount***

(1) In this Act:

***threshold amount*** means—

- (a) \$150 000; or
- (b) if another amount is determined under subsection (2)—that amount.

(2) The Treasurer may determine a threshold amount for subsection (1).

(3) A determination under subsection (2) is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

## 9 **Amount of bet**

If all or part of a bet is placed other than in cash, the amount of the bet includes the monetary value of the non-cash component of the bet.

### **Examples—non-cash component that may comprise all or part of a bet**

- 1 the amount or value of a debt to the extent it is released or extinguished by the bet
- 2 the amount of any liability assumed under the bet, including an obligation to pay any unpaid money
- 3 digital currency within the meaning of the [Anti-Money Laundering and Counter-Terrorism Financing Act 2006](#) (Cwlth)

*Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

**10 Liability to pay betting operations tax**

- (1) A betting operator is liable to pay tax (a *betting operations tax*) on the operator's net ACT betting revenue for a financial year.
- (2) The amount of betting operations tax payable by the betting operator is—
  - (a) if the operator's net ACT betting revenue for the financial year is less than the threshold amount—nil; or
  - (b) if the operator's net ACT betting revenue for the financial year is the threshold amount or more—at the determined rate of the amount by which the net ACT betting revenue exceeds the threshold amount.
- (3) In this section:

*determined rate* means—

  - (a) 15%; or
  - (b) if another rate is determined under the *Taxation Administration Act 1999*, section 139—that rate.

**11 Registration of betting operator liable to pay betting operations tax**

- (1) This section applies to a person if the person—
  - (a) is a betting operator; and
  - (b) is liable to pay betting operations tax for a financial year under section 10; and
  - (c) is not registered as an operator under this section.
- (2) The person must apply to the commissioner for registration as a betting operator.



- (3) The application must be made within 7 days after the end of the month in which the person first becomes liable to pay betting operations tax for the financial year.
- (4) The commissioner must register the applicant as a betting operator.
- (5) The commissioner may cancel the registration of a betting operator if satisfied that the operator's liability to pay betting operations tax under section 10 has ended.
- (6) A betting operator commits an offence if the operator—
  - (a) becomes liable to pay betting operations tax for a financial year under section 10; and
  - (b) is not registered under this section; and
  - (c) does not apply to be registered under this section within 7 days after the end of the month in which the operator first became liable to pay the betting operations tax for the financial year.

Maximum penalty: 250 penalty units.

## 12 Returns

- (1) This section applies to a betting operator if the operator's net ACT betting revenue for a financial year has exceeded the threshold amount.
- (2) The betting operator must, after the end of the month in a financial year in which the operator's net ACT betting revenue for that financial year first exceeds the threshold amount (the *first month*)—
  - (a) lodge with the commissioner a return (a *betting operations return*); and
  - (b) pay to the commissioner the amount of betting operations tax for which the operator is liable under section 10 (1) (b).

- (3) Also, the betting operator must, after the end of each month or other return period agreed by variation notice under section 14 following the first month (the *subsequent return period*)—
  - (a) lodge with the commissioner a betting operations return; and
  - (b) pay to the commissioner any betting operations tax payable for the subsequent return period.
- (4) For subsection (3) (b), the amount of betting operations tax payable for a subsequent return period is—
  - (a) if there is a net loss in the betting operator's net ACT betting revenue in the subsequent return period—nil; or
  - (b) if there is a net gain in the betting operator's net ACT betting revenue in the subsequent return period—the amount calculated in accordance with section 10 (1) (b) less any amount already paid to the commissioner for the financial year.
- (5) Unless varied by the commissioner under section 14, the time period within which the betting operator must lodge a betting operations return and pay any betting operations tax is—
  - (a) for the end of a financial year—21 days after the end of the financial year; or
  - (b) for any other return period—7 days after the end of the return period.

### **13 Information to be included in return**

A betting operations return must—

- (a) be lodged in a way required by the commissioner; and
- (b) include the following information:
  - (i) the betting operator's name, address, telephone number and email address;
  - (ii) net ACT betting revenue for the return period;

- (iii) total net ACT betting revenue for the financial year;
- (iv) the following details in relation to the net ACT betting revenue for the return period:
  - (A) the total amount of all ACT bets placed with, or using a service provided by, the betting operator;
  - (B) the total of any fees, commissions, or other amounts prescribed by regulation, associated with placing bets or using the service, paid to the betting operator;
  - (C) the total amount of all winnings paid or payable by the betting operator in relation to ACT bets.

#### **14 Monthly returns—lodgment variation**

- (1) A betting operator may apply to the commissioner, in writing, for variation of the return period or the time within which the operator must lodge a betting operations return and pay any betting operations tax under section 12.
- (2) An application must state the ground on which the variation is sought.
- (3) The commissioner may, by written notice given to the betting operator (a *variation notice*), vary—
  - (a) the return period under section 12 (3); or
  - (b) the time period within which the operator must lodge a betting operations return and pay any betting operations tax under section 12 (5).
- (4) A variation notice may be subject to conditions.
- (5) If a variation notice is in force for a betting operator, the operator must lodge a betting operations return and pay the betting operations tax in accordance with the notice.
- (6) The commissioner may, by written notice given to the betting operator, revoke a variation notice.

## Part 3 Miscellaneous

### 15 Regulation-making power

The Executive may make regulations for this Act.

*Note* A regulation must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

## Part 4 Consequential amendments

### 16 Taxation Administration Act 1999 New section 4 (aa)

*insert*

(aa) the *Betting Operations Tax Act 2018*;

## Dictionary

(see s 3)

*Note 1* The [Legislation Act](#) contains definitions and other provisions relevant to this Act.

*Note 2* For example, the [Legislation Act](#), dict, pt 1, defines the following terms:

- ACT
- disallowable instrument (see s 9)
- Executive
- financial year
- in relation to
- may
- must
- person (see s 160)
- prescribed
- Treasurer
- under.

***ACT bet***—see section 6.

***bet*** means any stake, pledge or wager between 2 people on any event or contingency but does not include a game or lottery authorised by a gaming Act.

***betting operations return***—see section 12.

***betting operations tax***—see section 10.

***betting operator*** means any person who earns revenue as a result of accepting bets or providing a service through which bets are made.

***commissioner***—see the [Taxation Administration Act 1999](#), dictionary.

***gaming Act*** means—

- (a) the *Casino Control Act 2006*; and
- (b) the *Casino (Electronic Gaming) Act 2017*; and
- (c) the *Gaming Machine Act 2004*; and
- (d) the *Lotteries Act 1964*.

***net ACT betting revenue***, for a financial year—see section 7.

***return period*** means the period of time to which a betting operations return relates.

***threshold amount***—see section 8.

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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 2 August 2018.

**2 Notification**

Notified under the [Legislation Act](#) on 26 September 2018.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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I certify that the above is a true copy of the Betting Operations Tax Bill 2018, which was passed by the Legislative Assembly on 18 September 2018.

Clerk of the Legislative Assembly

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