



Racing Industry (Offshore Betting—Consumption Charges) Regulations 2021

Patsy Reddy, Governor-General

Order in Council

At Wellington this 28th day of June 2021

Present:

Her Excellency the Governor-General in Council

These regulations are made under section 123 of the Racing Industry Act 2020—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister for Racing made after complying with section 123(4) of that Act.

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Regulations

1 Title

These regulations are the Racing Industry (Offshore Betting—Consumption Charges) Regulations 2021.

2 Commencement

These regulations come into force on 1 August 2021.

Preliminary provisions

3 Interpretation

(1) In these regulations, unless the context otherwise requires,—

Act means the Racing Industry Act 2020

Racing Integrity Board means the Board established by section 42 of the Act

return period means a period of 3 months ending on the close of 30 June, 30 September, 31 December, or 31 March.

(2) A term or an expression defined in the Act and used, but not defined, in these regulations has the same meaning as in the Act.

4 Meaning of gross betting revenue

In these regulations, **gross betting revenue** of an offshore betting operator means revenue calculated in accordance with the following formula:

$$a - b$$

where—

a is the total amount in money received by the offshore betting operator from taking bets on racing events and sporting events held in or outside New Zealand from persons resident in New Zealand

- b is the total amount of all prizes paid and payable in money to persons resident in New Zealand in relation to those bets.

5 Transitional, savings, and related provisions

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

Payment of consumption charges

6 Offshore betting operator must provide contact details to designated authority

- (1) An offshore betting operator who is liable to pay consumption charges to the designated authority must provide the designated authority with the following information:
- (a) the offshore betting operator's—
 - (i) full legal name; and
 - (ii) trading name (if different from their legal name); and
 - (iii) New Zealand GST number (if applicable); and
 - (iv) country of incorporation or residence; and
 - (v) street address; and
 - (vi) postal address; and
 - (b) the name, telephone number, and email address of a contact person of the offshore betting operator.
- (2) The information must be in the form specified by the designated authority and provided electronically.

7 Rate of consumption charges

For the purposes of section 114(1) of the Act, consumption charges are payable by an offshore betting operator at the rate of 10% of the operator's gross betting revenue in each return period.

8 Returns relating to consumption charges

- (1) An offshore betting operator must file a return with the designated authority relating to the amount of consumption charges payable by the operator in each return period.
- (2) The return must be provided no later than 28 days after the end of the return period to which the return relates.
- (3) The return must contain the following information:
- (a) the offshore betting operator's—
 - (i) full legal name; and
 - (ii) trading name (if different from their legal name); and

- (iii) New Zealand GST number (if applicable); and
 - (b) the offshore betting operator's total gross betting revenue in the return period; and
 - (c) the offshore betting operator's gross betting revenue in the return period from each of the following:
 - (i) racing betting;
 - (ii) sports betting; and
 - (d) the amount of consumption charges payable by the offshore betting operator for the return period or the negative amount to be transferred by the offshore betting operator to the next return period.
- (4) The return must include a declaration that the offshore betting operator, or the authorised representative of the offshore betting operator, believes that the information in the return is correct.
- (5) A return must be completed and provided electronically.
- (6) For the purposes of subclause (3)(c), if the offshore betting operator has received gross betting revenue from bets involving racing betting and sports betting made simultaneously, the operator must—
 - (a) make a reasonable estimate of the amount of gross betting revenue attributable to each form of betting; and
 - (b) apportion those amounts between each form of betting.

9 Conversion to New Zealand currency

- (1) An offshore betting operator must provide information about the amount of money the operator is liable to pay as consumption charges in New Zealand dollars in accordance with subclause (2).
- (2) An offshore betting operator must, in a return filed under regulation 8, convert foreign currency amounts into New Zealand currency amounts on either—
 - (a) the earlier of—
 - (i) the date on which the offshore betting operator files their return for the relevant return period; and
 - (ii) the due date for filing a return for the relevant return period; or
 - (b) another date or dates agreed between the offshore betting operator and the designated authority.

10 When consumption charges payable

- (1) An offshore betting operator must pay consumption charges for a return period no later than 28 days after the end of the return period.
- (2) However, if during any return period the offshore betting operator's gross betting revenue is a negative amount, then the negative amount may be used to

reduce the corresponding positive amount of consumption charges payable for the next return period.

- (3) If, after the use of the negative amount described in subclause (2), an excess negative amount remains, the excess amount may be used to reduce a positive amount of consumption charges payable in the immediately following return period.
- (4) Subclause (2) continues to apply until the excess amount is extinguished.

Distribution of consumption charges

11 Distribution of consumption charges

- (1) After complying with section 118(1)(a)(i) of the Act, the designated authority must distribute the remainder of the amount received from consumption charges, as follows:
 - (a) an amount equal to 2.5% of the charges received must be distributed to the department responsible for the integrated problem gambling strategy under section 317 of the Gambling Act 2003 for the purposes of funding measures to prevent and minimise harm from gambling; and
 - (b) an amount equal to 5% of the charges received must be distributed jointly to the Racing Integrity Board and Sport and Recreation New Zealand for the purposes of identifying and addressing risks to the integrity of racing betting and sports betting; and
 - (c) the remainder must be distributed to Racing New Zealand (acting on behalf of the 3 racing codes in accordance with section 12 of the Act) and Sport and Recreation New Zealand in amounts that are equal to the percentage that racing betting and sports betting have contributed to the charges received for the purposes of promoting the long-term viability of New Zealand racing and sports.
- (2) The distributions must be made on the date or dates agreed in writing between the designated authority and the person or persons to whom the distribution must be made.

Penalties

12 Provisions relating to penalties

- (1) A penalty notice issued by the designated authority to an offshore betting operator under section 116 of the Act must include the following information:
 - (a) the name of the offshore betting operator;
 - (b) the name of the offshore betting operator's authorised representative (if applicable);
 - (c) the offshore betting operator's address for service;

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- (d) the return period to which the penalty relates and the reason why the penalty notice has been issued:
 - (e) the amount of the penalty to be paid:
 - (f) the due date on or before which the penalty must be paid:
 - (g) the payment details of the designated authority:
 - (h) a statement advising the offshore betting operator of their right to request a review of the notice:
 - (i) a statement advising that the obligation to pay the penalty is not suspended by a request for a review or any legal proceedings relating to the penalty.
- (2) A penalty notice may be issued to an offshore betting operator—
- (a) by giving the notice in person; or
 - (b) by sending the notice by post; or
 - (c) by sending an electronic copy of the notice by email or other electronic means.
- (3) The penalties set out in Schedule 2 are payable in respect of the matters set out in that schedule.

Schedule 1
Transitional, savings, and related provisions

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Part 1
Provisions relating to these regulations as made

1 First return

- (1) This clause applies to the first return required to be provided by an offshore betting operator to the designated authority under regulation 8 after the commencement of these regulations.
- (2) The return period for the first return is the period of 2 months beginning on 1 August 2021 and ending with the close of 30 September 2021.

Schedule 2

Penalties

r 12(3)

Section of Act	Description	Penalty
116(1)(a)	Failure to pay consumption charges for return period on or before due date	An amount equal to 1% of consumption charges payable by offshore betting operator in relevant return period after due date and an additional amount equal to 1% of consumption charges payable for that period for each month outstanding consumption charges remain overdue
116(1)(b)	Failure to provide prescribed information	\$100
116(1)(b)	Failure to provide return on or before due date	\$250
116(1)(c)	Failure to take reasonable care in providing information to designated authority for purposes of calculating consumption charges payable by offshore betting operator	An amount equal to 20% of consumption charges payable by offshore betting operator in relevant return period
116(1)(c)	Gross negligence in providing information to designated authority for purposes of calculating consumption charges payable by offshore betting operator	An amount equal to 40% of consumption charges payable by operator offshore betting operator in relevant return period
116(1)(c)	Wilful misconduct in providing information to designated authority for purposes of calculating consumption charges payable by offshore betting operator	An amount equal to 100% of consumption charges payable by offshore betting operator in relevant return period

Michael Webster,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 1 August 2021, prescribe matters relating to consumption charges payable by offshore betting operators to the designated authority under Part 5 of the Racing Industry Act 2020 (the **Act**).

An offshore betting operator (as defined in section 105 of the Act) is a person located outside New Zealand who takes bets on racing events and sporting events held in or outside New Zealand from persons resident in New Zealand.

Part 5 of the Act sets out a scheme under which offshore betting operators must pay charges in New Zealand to recognise the financial returns they enjoy from the bets

they take on racing and sporting events held in New Zealand and from people resident in New Zealand. The Department of Internal Affairs is the designated authority responsible for administering the scheme, including by collecting the charges and enforcing payment through the issue of penalty notices under the Act. The effect of section 117 of the Act is that an offshore betting operator is liable to pay consumption charges if their revenue from taking bets on racing and sporting events from persons located in New Zealand, whether the events are held in or outside New Zealand, exceeds \$60,000 (being the amount specified in section 51(1)(a) of the Goods and Services Tax Act 1985 for the operator to become a registered person under that Act).

The general effect of these regulations is as follows:

Regulations 6 to 10 provide further detail relating to the operation of the scheme and require an offshore betting operator who meets the threshold for paying consumption charges to—

- provide their contact details to the designated authority; and
- pay consumption charges, for each period of 3 months (the **return period**), at the rate set by the Minister based on 10% of their gross betting revenue in that period; and
- file a return with the designated authority relating to the amount of consumption charges (converted to New Zealand dollars) that the offshore betting operator is required to pay in each return period; and
- pay the consumption charges for each return period no later than 28 days after the end of the return period.

Regulation 11 deals with the distribution of consumption charges collected by the designated authority. After complying with section 118(1)(a)(i) of the Act, which requires the designated authority to apply the money received from consumption charges towards paying the cost of administering the scheme, the designated authority must distribute the remainder of the money in specified percentages to the department responsible for the integrated problem gambling strategy (currently, the Ministry of Health), Sport and Recreation New Zealand, the Racing Integrity Board, and Racing New Zealand (acting on behalf of the 3 racing codes) for the purposes set out in section 118(1)(a)(ii) to (iv) of the Act.

Regulation 12 and Schedule 2 set out further provisions relating to the issue of penalty notices by the designated authority in respect of unpaid consumption charges, including the information that must be contained in a penalty notice and how it may be issued, and specify penalty amounts.

Regulatory impact statement

The Department of Internal Affairs produced a regulatory impact statement on 19 May 2021 to help inform the decisions taken by the Government relating to the contents of this instrument.

A copy of this regulatory impact statement can be found at—

- <https://www.dia.govt.nz/Resource-material-Regulatory-Impact-Statements-Index#zero>
- <https://treasury.govt.nz/publications/informationreleases/ris>

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*: 1 July 2021.

These regulations are administered by the Department of Internal Affairs.