



ANNO VICESIMO

ELIZABETHAE II REGINAE

A.D. 1971

No. 38 of 1971

An Act to amend the Lottery and Gaming Act, 1936,
as amended.

[Assented to 29th April, 1971]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

Short titles.

1. (1) This Act may be cited as the "Lottery and Gaming Act Amendment Act (No. 2), 1971".

(2) The Lottery and Gaming Act, 1936-1970, as amended by this Act and by all Acts amending the same prior to the commencement of this Act, may be cited as the "Lottery and Gaming Act, 1936-1971".

(3) The Lottery and Gaming Act, 1936-1970, is hereinafter referred to as "the principal Act".

Amendment of
principal Act,
s. 2—
Division of
Act.

2. Section 2 of the principal Act is amended by inserting after the item—

PART IIIA—Betting on Totalizators conducted by the Totalizator Agency Board

the item—

PART IIIB—Trotting Control Board.

3. Section 4 of the principal Act is amended by inserting after the definition of "the Totalizator Agency Board" the following definition:—

Amendment of principal Act, s. 4—
 Interpretation.

"the Trotting Control Board" means the Trotting Control Board constituted under Part IIIb of this Act:.

4. Section 21 of the principal Act is amended by striking out from subsection (2a) the word "ten" and inserting in lieu thereof the word "twelve".

Amendment of principal Act, s. 21—
 Use of totalizator at trotting races.

5. Section 22 of the principal Act is amended—

Amendment of principal Act, s. 22—

(a) by inserting after the word "League" in subsection (1) the passage "or the Trotting Control Board";

Permits to hold trotting races.

and

(b) by striking out from subsection (2) the passage "The Executive Committee of the League" and inserting in lieu thereof the passage "Until the appointed day as defined in section 31w of this Act the Executive Committee of the League and on and after that day the Trotting Control Board".

6. Section 22a of the principal Act is amended—

Amendment of principal Act s. 22a—
 Constitution of S.A. Trotting League.

(a) by striking out subsection (8);

and

(b) by inserting after subsection (9) the following subsection:—

(10) This section shall cease to have any force or effect on the appointed day as defined in section 31w of this Act.

7. The following sections and heading thereto are enacted and inserted in the principal Act immediately after section 31v thereof:—

Enactment of Part IIIb of principal Act—

PART IIIb

TROTTING CONTROL BOARD

31w. (1) In this Part, unless the context otherwise requires— Interpretation.

"registered club" means a club or association for the time being registered with the League or the Board as a trotting club:

"the appointed day" means the day fixed by proclamation as the appointed day for the purposes of this Part:

“the Board” means the Trotting Control Board constituted under this Part:

“the chairman” means the chairman of the Board and includes any person for the time being acting as or carrying out the functions of the chairman of the Board.

(2) The Governor may by proclamation fix a day as the appointed day for the purposes of this Part.

Constitution of
Trotting
Control
Board.

31x. (1) There shall be established a board which shall be called the “Trotting Control Board”.

(2) The Board—

(a) shall be a body corporate with perpetual succession and a common seal;

(b) shall be capable of acquiring, taking or letting out on lease, holding, selling and otherwise disposing of property of all kinds;

(c) may in its name sue and be sued;

and

(d) shall have the powers, duties, functions and authorities conferred, imposed or prescribed by or under this Act.

(3) All courts and persons acting judicially shall take judicial notice of the common seal of the Board affixed to any document and shall presume that it was duly affixed.

(4) Subject to this Act, the Board shall consist of seven members appointed by the Governor, of whom—

(a) one shall be appointed on the recommendation of the Minister and shall be the chairman;

(b) one shall be nominated by the governing body of the South Australian Breeders', Owners', Trainers' and Reinsmen's Association, Incorporated;

(c) two shall be nominated by the committee of the South Australian Trotting Club Incorporated;

and

(d) three shall be nominated by resolution passed at a meeting convened in accordance with the directions of the Minister by a majority in number of delegates of the registered clubs (other than the South Australian Trotting Club Incorporated), being one delegate from each such club.

(5) Whenever a nomination is required for the appointment of a member, the Minister may, by written notice addressed to the association whose governing body or committee is, or to the clubs whose delegates are, required to make the nomination, request that it be made within twenty-eight days after the date of the notice or any longer time specified in the notice, and if no nomination is made pursuant to that request, the Governor may, on the recommendation of the Minister, appoint a person who, in the opinion of the Minister, is suitable, to be a member of the Board and a person so appointed shall for all purposes be deemed to have been duly appointed.

(6) The chairman shall be appointed for such term not exceeding four years and a member other than the chairman shall be appointed for such term not exceeding twelve months, as the Governor determines at the time of the appointment and, at the expiration of his term of office whether as chairman or member other than chairman, a person shall be eligible for re-appointment, but a member appointed to fill a casual vacancy shall be appointed only for the balance of the term of office of the member in whose place he is appointed.

(7) A person shall not be eligible—

(a) to hold the office of the chairman if he is a member of a registered club or of an association representing breeders, owners, trainers or reinsmen of trotting horses;

or

(b) to hold the office of a member of the Board if he is the holder of a current reinsman's licence or permit or a trainer's licence granted by the League or the Board or if he is registered as a stable hand by the League or the Board.

(8) A majority of the members of the Board shall form a quorum thereof and no meeting of the Board shall proceed unless a quorum is present.

(9) If the chairman is not present at a meeting of the Board at which a quorum is present, the members of the Board present at that meeting shall elect an acting chairman for the day.

(10) The chairman or acting chairman shall have a deliberative vote and if the vote on any question is equal the chairman or acting chairman shall also have a casting vote.

(11) A member of the Board may authorize any person, who is not disqualified from being a member, to act as his proxy at a meeting of the Board at which the member is not present and a person so authorized may do all things at the meeting which the member could do if he were present.

(12) The Governor may, by notice in writing served on a member, remove him from office on grounds of misconduct or incapacity to perform his duties as a member.

(13) The functions of the Board shall include the control, promotion, fostering and encouragement of the sport of trotting.

(14) The members of the Board shall be entitled to receive from the funds of the Board such remuneration as is fixed by the Governor and such allowances and other expenses as are fixed by the Board.

(15) Subject to this Act and to any lawful resolution of the Board, the affairs of the Board shall be administered, managed and controlled by and every trotting race and trotting race meeting shall be conducted under the supervision, control and directions of the Board.

(16) The Board shall keep full and proper accounts of all its financial transactions and shall cause those accounts to be audited annually by an auditor appointed by the Board.

League to
cease to
exist on
appointed day.

31xa. (1) On the appointed day, subject to this Act—

(a) the League, the Executive Committee of the League and all other committees or sub-committees of the League shall be abolished and cease to exist and the members thereof shall vacate their offices as such;

(b) all property of whatever kind held by or vested in the League immediately before that day shall become the property of the Board and shall be held by or vested in the Board, as the case may be, in the same way and to the same extent and subject to the same trusts and conditions, if any, as it was held by or vested in the League;

and

(c) all rights, powers, authorities, duties, obligations and liabilities of the League shall become rights, powers, authorities, duties, obligations and liabilities of the Board.

(2) Every legal proceeding, or remedy instituted, or sought to be enforced by or against the League before the appointed day may on or after that day be continued, completed and enforced by or against the Board, as the case might require, as if the Board were substituted for the League and any legal proceeding, remedy, claim or application which, before the appointed day, could have been instituted, sought or made by or against the League may, on and after that day, be instituted, sought or made by or against the Board.

(3) Except as in this Act expressly or by necessary implication provided, the abolition of the League or any committee or sub-committee thereof shall not disturb the continuity of status, operation or effect of any enactment, regulation, rule, order, complaint, summons, warrant, instrument, document, application, appeal, determination, decision, fine, penalty, direction, licence, permit, permission, registration, de-registration, certificate, consent, approval, contract, agreement, confirmation, condition, notice, fee, liability or right that existed before the appointed day, and they shall continue to have effect on and after the appointed day as if any reference therein to the League or any such committee or sub-committee were, where the context so requires, a reference to the Board or to any appropriate committee appointed by the Board.

(4) Where any moneys which were payable to the League under any order of a court, or any rule or instrument of any kind or by virtue of any powers exercised by or on behalf of the League have not been paid, such moneys shall become payable to and recoverable by the Board as a debt due to the Board notwithstanding that all or any of such moneys became due and payable before the appointed day.

(5) Any appeal or matter being heard or dealt with by the League and not disposed of immediately before the appointed day shall be deemed to be an appeal to the Board or a matter which the Board is competent to deal with and shall be heard or dealt with by the Board accordingly.

(6) Any right of appeal to the League or an Appeal Committee appointed by the Executive Committee of the League which had not expired immediately before the appointed day shall be deemed to be a right of appeal to the Board or to an Appeal Committee appointed or deemed to be appointed by the Board, as the case may be.

(7) Within a reasonable time after the appointed day, the Board shall notify the Registrar of Companies in writing that the League has been abolished and has ceased to exist and the Registrar of Companies shall, upon receiving that notification, without further inquiry or action notwithstanding anything contained in the Associations Incorporation Act, 1956, as amended, cancel the incorporation of the League under that Act and thereupon that Act shall in no way apply or be deemed to apply to or in relation to the League.

31xb. (1) The Board shall appoint an Appeal Committee or Appeal Committees to hear and determine appeals against decisions of stewards appointed by the Board or any registered club.

Appeal
Committee.

(2) An Appeal Committee may confirm, vary or reverse a decision appealed against.

(3) An Appeal Committee appointed by the League and holding office as such immediately before the appointed day may continue and finally dispose of the hearing of an appeal commenced but not concluded before the appointed day and, for that purpose, shall be deemed to have been appointed by the Board.

Powers of the Board.

31xc. (1) The Board shall have power—

- (a) to do such things as it thinks necessary and advisable to encourage, by practical and other means, the improvement of the quality and breeding of trotting horses in the State;
- (b) by itself, or in association with any other person or persons, to grant subsidies for the operation of training tracks, to initiate, establish, subsidize, assist or manage any undertaking or matter for the purpose of achieving effective control and better administration, or for the promotion, fostering and encouragement, of the sport of trotting, or discontinue any such undertaking or matter;
- (c) to establish, maintain and control funds, in particular, funds for providing or subsidizing prize money or granting assistance to and for the supervision of registered clubs operating outside a radius of twenty miles from the General Post Office at Adelaide and of trotting races at agricultural shows, picnic race meetings and sports meetings approved by the Board;
- (d) to give, subscribe and expend its moneys in prizes or otherwise in connection with its powers and functions and contribute to the funds of any registered club;
- (e) to make contributions for any purpose which, in its opinion, is a patriotic or charitable purpose;
- (f) to purchase, acquire, take on lease or hire, sell, dispose of, demise, let, mortgage or charge real or personal property of any description or any estate or interest therein or any right or claim thereto;
- (g) to invest its funds in such investments and securities as it thinks fit;
- (h) to borrow money on loan, with or without security;

- (i) to lend money with or without security;
- (j) to undertake obligations and liabilities and execute bonds and guarantees of any kind on behalf of any registered club or any officer or servant thereof or of the Board or on behalf of any other person;
- (k) to exercise any powers which a registered club should have exercised under the rules of the club or rules made or deemed to be made by the Board in relation to corrupt practices or otherwise;
- (l) to enter into reciprocal arrangements with any authority, association or person administering or controlling the sport of trotting or the sport of horse racing other than trotting or the sport of dog racing in any part of the Commonwealth or any other part of the world having the same or like powers as the Board with respect to the registration of horses or dogs, the endorsement and recognition of disqualifications, licences, permits, defaulters and other matters and things relating to the control and administration of those sports;
- (m) to affiliate with other bodies concerned with the control or administration of the sport of trotting or the sport of horse racing other than trotting or the sport of dog racing;
- (n) to recognize, give effect to and adopt for the purposes of the sport of trotting in South Australia any disqualification or other penalty imposed or inflicted upon any association, person, horse or dog by any authority, association or person with which the Board has entered into reciprocal arrangements;
- (o) to establish, support and maintain or assist in the establishment, support and maintenance of institutions, funds and trusts as the Board thinks fit for the benefit of officers and servants or former officers and servants of the Board or officers and servants or former officers and servants of any registered club including, if the Board thinks fit, their dependants or connections and for such other purposes as the Board thinks fit or as are provided for in the rules; to grant pensions, payments and allowances and make payments for or towards insurance;
- (p) to take over and administer all trusts and funds vested in the League in accordance with the constitutions governing them; by resolution to alter the constitution of any such trusts and funds or by resolution to substitute a new constitution for an existing

constitution of such trusts and funds, and until such constitution is altered or substituted, any reference therein to the League or the Executive Committee of the League shall be read as a reference to the Board, and any reference to any officer, servant or appointee of the League shall be read as a reference to a corresponding officer or servant or appointee of the Board, as the case may be.

(2) The Board may appoint auditors and such officers and servants upon such terms and conditions as the Board thinks fit and remunerate them out of the funds of the Board.

(3) The Board may institute and hold inquiries into the affairs of any registered club or into the conduct or behaviour of any person in connection with the sport of trotting and, for any such purpose, may require production of, and inspect, any books, documents or other information which the Board considers necessary for the holding of such inquiries, and the Board may make such order in the premises as it shall deem proper for effectually dealing with any matter the subject of its inquiries.

(4) The Board may, by instrument under the hand of the chairman, delegate to any person or committee appointed by the Board any of its powers conferred by subsection (3) of this section and those powers, when so delegated may be exercised by the delegate to the same extent and with the same incidents as if they were exercised by the Board.

(5) The Board may require any of its officers or servants to attend any trotting meeting or any agricultural show, picnic race meeting or sports meeting at which trotting races are held for the purpose of supervising or assisting at the meeting and any charge made by the Board for the services of any such officer or servant to a registered club shall be paid by the club to the Board in accordance with the rules.

Board to ensure compliance with lawful decisions of Betting Control Board.

31xd. The Board shall take such steps as are necessary to ensure compliance by it and its officers and servants and by registered clubs and their officers and servants with all lawful and relevant decisions of the Betting Control Board.

Trotting races at agricultural shows, etc.

31xe. (1) No trotting race shall be conducted by any person, club or society at any agricultural show, picnic race meeting or sports meeting without the written permission of the Board.

(2) The Board may, upon the written application of the person, club or society and on payment of such fee, if any, as the Board may fix, grant or refuse its permission for a trotting

race to be conducted at any agricultural show, picnic race meeting or sports meeting.

(3) The Board may allow any person, club or society to whom or to which such permission is granted to have the assistance of any officers or servants of the Board or of any registered club if it so directs.

31xf. (1) No person or association, including a registered club, shall on or after the appointed day take part in the conduct of a trotting meeting which is not held with the approval of the Board.

Approval of Board required for trotting meetings and programmes.

(2) On and after the appointed day as defined in section 31w of this Act, no club shall hold a trotting race meeting unless the programme therefor has been adopted and approved by the Board.

31xg. Any notice or other communication in writing required to be given by the Board may be sent by post.

Notices, etc., may be sent by post.

31xh. The Board shall have an office or offices at such place or places as the Board may from time to time or at any time decide, and such office or, if there be more than one, such particular office as the Board shall from time to time appoint shall be the headquarters of the Board.

Board to have office.

31xi. Any member of the Board shall not be personally liable for any act, receipt, neglect or default by the Board or by him in good faith in the execution of the powers, duties and functions of the Board as such or of him as a member of the Board.

Member of Board not personally liable for acts done in good faith.

31xj. (1) Subject to subsection (2) of this section, the funds of the Board shall consist of—

Funds of the Board.

- (a) moneys that become vested in the Board by virtue of section 31xa of this Act;
- (b) fees, charges, subscriptions and contributions paid to the Board for licences, permits, registrations and renewals thereof and for applications, certificates and other services;
- (c) fines and deposits paid to the Board by such persons and registered clubs and for such purposes as are prescribed;
- (d) income from investments made by the Board;
- and
- (e) such other moneys as are paid to the Board under this Act.

(2) Notwithstanding subsection (1) of this section, where any moneys or any deposits are held by the Board subject to any trusts or conditions those moneys shall continue to be held by the Board subject to those trusts or conditions or to those trusts and conditions as lawfully altered until such trusts or conditions are fully discharged.

Rules of the Board.

31xk. (1) Subject to this Act the Board may make rules not inconsistent with this Act, to take effect on or after the appointed day, for the effective control and administration of the sport of trotting, for promoting, fostering and encouraging the sport of trotting, and for any purpose for which rules are necessary or desirable to give effect to this Part.

(2) Without limiting the generality of the power conferred by subsection (1) of this section, rules made by the Board under this section may do all or any of the following:—

- (a) regulate the practice and procedure at meetings of the Board;
- (b) make provision for the effective exercise of the powers of the Board and for matters incidental thereto and consequential thereon and for giving effect to the provisions of this Act which deal with the sport of trotting;
- (c) regulate and make provision for matters concerning the sport of trotting, the conduct of trotting races and trotting meetings and the fixing and approval of dates of trotting meetings;
- (d) make provision for the imposition, payment and collection of specific or periodic fees, charges, subscriptions and contributions for licences, permits, registrations and for renewals thereof and for applications, certificates and other services and of fines and deposits payable to the Board by such persons and registered clubs and for such purposes as are prescribed;
- (e) make provision for the inflicting of penalties on persons or associations, including registered clubs, taking part in or associated with the sport of trotting for contravention of or non-compliance with any provision of this Part or any rule or any decision made pursuant to this Act;

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- (f) prescribe the circumstances under which moneys paid to the Board by any person or club will be held by the Board on deposit in trust for that person or club;
- (g) provide for the grant (with or without conditions), refusal, cancellation, suspension and issue of such licences and permits as are prescribed, the application therefor and the manner of dealing therewith; and the grant (with or without conditions), refusal, cancellation and suspension of any registration of any sort and the procedure for hearing and determining or re-hearing or re-considering any application for a licence or permit or for registration, re-registration, cancellation or suspension of registration;
- (h) provide for a right of appeal to the Board and for the hearing and determination by the Board of any such appeal—
- (i) where a registered club is dissatisfied with any ruling, finding or decision of any officer or officers of the Board on any matter affecting the club or in which the club is interested;
- or
- (ii) on questions, complaints and disputes arising from the affairs of any registered club or registered clubs or from the act or decision of any registered club, committee or official to the extent that they concern the sport of trotting in general or the conduct of trotting races or trotting meetings or concern any disqualification, fine or other penalty inflicted or imposed by any registered club or other body that may have trotting events on its programme which have been approved by the Board or inflicted or imposed by any official of such club or body;
- (i) require every registered club to submit to the Board at such times as the Board might require the proposed dates and programmes for all race meetings to be conducted by the club; provide for the approval, with or without modification, of such dates and programmes and the adoption, variation or alteration of the form or content of such programmes and the conditions attaching thereto;

(j) provide for the keeping by the Board of such registers as are prescribed and for the continuance of registers kept and maintained by the League; and for the payment and collection of such fees for entries in such registers as are prescribed; and prescribe matters to be stated upon application for registration and the conditions to be complied with or satisfied for any entry in a register.

(3) The rules made by the League and in force immediately before the appointed day shall, with such adaptations and modifications as are necessary for the purposes of this subsection, on and from the appointed day until the expiration of twelve months thereafter or such further time as may from time to time be fixed by proclamation or until their earlier revocation by rule made by the Board, be deemed to be rules made by the Board under this section and shall have force and effect accordingly, a reference in those rules to the League or the Executive Committee of the League being read as a reference to the Board.

Amendment of
principal Act,
s. 48—
Control of
trotting races.

8. Section 48 of the principal Act is amended—

(a) by inserting after the word "League" in subsection (1) the passage "or by the Board";

and

(b) by striking out from subsection (2) the passage "may with the consent of the board" and inserting in lieu thereof the passage "or, in the case of permits to be issued on or after the appointed day as defined in section 31w of this Act, the Board may, with the consent of the Betting Control Board".

In the name and on behalf of Her Majesty, I hereby assent
to this Bill.

J. W. HARRISON, Governor.