

LEGISLATIVE COUNCIL

Read 1° 29 March 1988

(Brought in by the Honourable J. E. Kirner)

A BILL

to amend the *Racing Act* 1958 and for other purposes.

Racing (Amendment) Act 1988

The Parliament of Victoria enacts as follows:

Purpose.

- 5 1. The purposes of this Act are to amend provisions relating to the Racing Appeals Tribunal, to make further provision for pecuniary interests of Board members, to make further financial provision for the Totalizator Agency Board and to make other amendments.

Commencement.

2. (1) This Act, other than section 8, comes into operation on the day on which it receives the Royal Assent.
- 10 (2) Section 8 is deemed to have come into operation on 23 September 1987.

Principal Act.

3. In this Act, the *Racing Act* 1958 is called the Principal Act.

No 6353.
Reprinted to No.
10087 and
amended by Nos.
10184, 10193,
19/1986
28/1986, 66/
1986, 125/1986,
5/1987, 49/1987,
92/1987 and
97/1987.

Pecuniary interest of members of statutory bodies.

4. (1) After section 45A (3) of the Principal Act, insert—

“(3A) For the purposes of this section, a member of the Board who holds office in or is a member or employee of—

(a) the Metropolitan and Country Trotting Association of Victoria; or 5

(b) the Association of Victorian Country Trotting Clubs; or

(c) a harness racing club—

shall not thereby be treated as having a direct or indirect interest in a contract or proposed contract or other matter with or concerning that association or club.” 10

(2) After section 75A (3) of the Principal Act, insert—

“(3A) For the purposes of this section, a member of the Board who holds office in or is a member or employee of a greyhound racing club shall not thereby be treated as having a direct or indirect interest in a contract or proposed contract or other matter with or concerning that club.” 15

(3) In section 116C (2) of the Principal Act, omit “or is directly or indirectly concerned in any contract with the Board”.

(4) In section 116FA (2) of the Principal Act, for “For” substitute “Subject to sub-section (3A), for” 20

(5) After section 116FA (3) of the Principal Act, insert—

“(3A) For the purposes of this section, a member of the Board who—

(a) holds office in or is a member or employee of— 25

(i) the Victoria Racing Club; or

(ii) the Harness Racing Board; or

(iii) the Greyhound Racing Control Board; or

(iv) the Victorian Country Racing Council; or

(v) any other race club; or 30

(b) is a member of the board of directors of a corporation the majority of the shares in which are held by any one or more of the bodies referred to in paragraph (a)—

shall not thereby be treated as having a direct or indirect interest in a contract or proposed contract or other matter with or concerning that club, board, council or corporation.” 35

Racing Appeals Tribunal.

5. (1) In section 83K (6) of the Principal Act, for “In” substitute “Subject to sub-section (6A), in”.

(2) After section 83K (6) of the Principal Act, insert—

5 “(6A) If—

(a) a penalty has been imposed upon, or any other decision or order has been made against, more than one person arising out of the same set of circumstances; and

10 (b) any one of those persons is entitled to appeal under sub-section (4)—

any person referred to in paragraph (a) may appeal against the penalty, decision or order to the Tribunal.

(6B) If sub-section (6A) applies, the appropriate controlling body has no jurisdiction to hear and determine the appeal.”.

15 (3) In section 83K (7) of the Principal Act, after “against” insert “subject to any terms or conditions that the Chairman or Deputy Chairman thinks appropriate”.

(4) In section 83K of the Principal Act, for sub-section (8) substitute—

20 “(8) An appellant may at any time give to the Registrar written notice of intention to abandon an appeal.

(8A) The Tribunal may—

(a) impose any condition as to payment of costs or otherwise that it thinks fit before an appeal may be abandoned; or

25 (b) determine that no condition be imposed.

(8B) If a condition imposed under sub-section (8A) is satisfied or the Tribunal determines that no condition be imposed, the appeal is abandoned and the Registrar must refund the money lodged by the appellant with the appeal.

30 (8C) On the hearing of an appeal, the Tribunal, of its own motion or on the application of a party to the appeal, may, with the consent of the appellant, proceed to hear the appeal as if the matter in respect of which the penalty has been imposed or the decision or order has been made were a matter substituted by direction of the Tribunal.

35 (8D) An appeal heard under sub-section (8C) must be by way of rehearing.”.

New section 83MA inserted.

6. After section 83M of the Principal Act insert—

Protection of members, legal practitioners and witnesses.

“83MA. (1) A member of the Tribunal has, in the performance of duties as a member, the same protection and immunity as a Judge of the Supreme Court. 5

(2) A legal practitioner or other person appearing before the Tribunal on behalf of a party has the same protection and immunity as a barrister has in appearing for a party in proceedings in the Supreme Court. 10

(3) Subject to this Act, a person summoned to attend or appearing before the Tribunal as a witness has the same protection, and, in addition to the penalties provided by this Act, is subject to the same liabilities, as a witness in proceedings in the Supreme Court.”

New section 83NA inserted. 15

7. After section 83N of the Principal Act insert—

Jurisdiction to hear and determine racing matters.

“83NA. (1) The Supreme Court does not have jurisdiction to hear, or continue to hear, or determine any proceedings in which a person bringing the proceedings brings in issue the matter of the exercise of, or the failure to exercise, a power if— 20

(a) the Tribunal has jurisdiction to hear and determine the matter; and

(b) the matter—

(i) has not been referred to the Tribunal; or 25

(ii) if so referred, has not been determined by the Tribunal.

(2) If the Supreme Court is of the opinion that there are special circumstances which justify the hearing by the Court of proceedings to which sub-section (1) applies, the Court may direct that sub-section (1) does not apply to those proceedings. 30

(3) If a Court determines any proceedings to which sub-section (1) applies but does not give a direction under sub-section (2), nothing in this section invalidates the decision of the Court.”

Amendment of section 94A.

8. In section 94A (2) (b) of the Principal Act, for sub-paragraph (ii) substitute—

5 “(ii) of not less than \$25 000 in respect of all defaults by any other bookmaker or the bookmaker’s substitute in the payment of wagers at any race-meeting.”.

Totalizator Agency Board Development Reserve.

9. After section 116O (3A) of the Principal Act, insert—

10 “(3AA) The Board, with the approval of the Minister, may withdraw money from the Development Reserve and money so withdrawn shall be applied for any one or more of the purposes set out in sub-section (3B).”.

