

ACTS AMENDMENT AND REPEAL (BETTING) ACT 1992

No. 11 of 1992

AN ACT to amend —

**the *Totalisator Agency Board Betting Act 1960*;
the *Betting Control Act 1954*;
the *Racecourse Development Act 1976*; and
the *Racing Penalties (Appeals) Act 1990*,**

and to repeal —

**the *Totalisator Act 1883*;
the *Totalisator Act Amendment Act 1899*; and
the *Totalisator Regulation Act 1911*.**

[Assented to 16 June 1992.]

The Parliament of Western Australia enacts as follows:

PART 1 — PRELIMINARY

Short title

1. This Act may be cited as the *Acts Amendment and Repeal (Betting) Act 1992*.

Commencement

2. (1) The Parts of this Act come into operation on such day as is, or days as are respectively, fixed by proclamation.

(2) The day fixed as the day on which Part 4 comes into operation shall be a day that is later than the day fixed as the day on which Part 3 comes into operation.

**PART 2 — TOTALISATOR AGENCY BOARD BETTING
ACT 1960**

Principal Act

3. In this Part the *Totalisator Agency Board Betting Act 1960** is referred to as the principal Act.

[* *Reprinted as at 27 September 1991.*]

Long title amended

4. The long title to the principal Act is amended by deleting “**the Board**”, in both places where it occurs, and substituting the following —

“ **the TAB** ”.

Section 3 amended

5. Section 3 of the principal Act is amended —

- (a) by deleting the definition of “Board”;
- (b) in the definitions of “bookmaker”, “totalisator”, “totalisator agency” and “totalisator ticket”, by deleting “the Board”, in each place where it occurs, and substituting the following —

“ **the TAB** ”; and

- (c) by inserting, in appropriate alphabetical sequence, the following definitions —

“ **“chief executive officer”** means the person holding or acting in the office of manager of the TAB;

“**function**” includes powers, duties and authorities;

“**perform**”, in relation to functions, includes the exercise of a power or authority;

“**public servant**” means a person who is an officer under the *Public Service Act 1978*;

“**the Board**” means the governing body of the TAB provided for by section 6;

“**the TAB**” means the body constituted under section 5;

”.

**Section 4 repealed and
a section substituted**

6. Section 4 of the principal Act is repealed and the following section is substituted —

The TAB

“ 4. (1) This Act —

(a) is to apply in all portions of the State, whether or not ever proclaimed as a totalisator agency region; and

(b) binds the Crown.

(2) The functions of the TAB are —

(a) to carry on —

(i) principally, the business of operating an off-course totalisator betting

service on racing and certain sporting events; and

- (ii) any other business considered by the Board to be conducive to the success of or incidental to the principal business,

but so that such other business is not conducted to the detriment of the principal business or in a manner which confers any unfair commercial advantage; and

- (b) to invest, re-invest or otherwise use and employ funds for the time being held by the TAB in such manner as the Board thinks fit.

(3) The TAB is to —

- (a) perform its functions in accordance with prudent commercial principles; and
- (b) use reasonable endeavours to derive a profit.

(4) The TAB may perform any of its functions within the State or elsewhere.

”.

Section 5 amended

7. Section 5 of the principal Act is amended —

- (a) in subsection (1) by deleting “duties imposed and the powers” and substituting the following —

“ functions ”;

- (b) by repealing subsection (2) and substituting the following subsection —

“ (2) The corporate name of the body corporate established under this section prior to the coming into operation of the provisions introduced by Part 2 of the *Acts Amendment and Repeal (Betting) Act 1992* was, and thereafter shall still be, the Totalisator Agency Board, but that body may use, and operate under, the designation “the TAB” or, if so approved by the Minister, one or more other trading names, not being its corporate name. ”;

- (c) in subsection (3) —

- (i) by deleting “Board” wherever it occurs and substituting the following —

“ TAB ”; and

- (ii) by deleting “and shall conduct totalisator betting operations as authorized by this Act,”;

- (d) in subsection (3a), by deleting “Board” in both places where it occurs and substituting, in each case, the following —

“ TAB ”;

- (e) in subsection (4), by deleting “Board” and substituting the following —

“ TAB ”;

- (f) by repealing subsection (5) and substituting the following subsection —

“ (5) The TAB —

- (a) is an agency of the Crown;

- (b) except as otherwise prescribed, enjoys the status, immunities and privileges of the Crown; and
- (c) is, for the purposes of any Act, a public authority. ”;

and

- (g) by repealing subsections (6) and (7).

Section 6 amended

8. Section 6 of the principal Act is amended —

- (a) in subsection (1) by deleting “On the coming into operation of section 7 of the *Acts Amendment (Totalisator Agency Board Betting) Act 1987* the persons who immediately prior thereto held office as members of the Board shall cease to hold that office and the Board shall thereafter” and substituting the following —

“ The functions of the TAB shall be performed by a Board which shall be the governing body of the TAB and shall ”;

and

- (b) by inserting after subsection (5) the following subsections —

“ (6) The performance of a function of the TAB by the Board is not invalidated by reason of there being a vacancy or vacancies in the membership of the Board.

(7) The appointment of a member is not invalidated and is not to be called in question by reason of there being a defect or irregularity in or in connection with the member's nomination. ”.

Section 13 amended

9. Section 13 of the principal Act is amended —

(a) in subsection (1), by deleting “its seal” and substituting the following —

“ the seal of the TAB ”;

(b) in subsection (1), by deleting “its powers and functions” and substituting the following —

“ the functions of the TAB ”; and

(c) in subsection (2), by deleting “exercise of a power or function” and substituting the following —

“ performance of a function of the TAB ”.

Section 14A inserted

10. After section 14 of the principal Act, the following section is inserted —

Minister to have access to information

“ 14A. (1) For parliamentary purposes or for the proper conduct of the Minister's public business, the Minister is entitled —

(a) to have information in the possession of the TAB; and

(b) where the information is in or on a document, to have, and make and retain copies of, that document.

(2) For the purposes of subsection (1) the Minister may —

- (a) request the TAB to furnish information to the Minister;
- (b) request the Board to give the Minister access to information;
- (c) for the purposes of paragraph (b) make use of the staff and facilities of the TAB to obtain the information and furnish it to the Minister.

(3) The TAB and the Board, respectively, shall comply with a request under subsection (2) and make staff and facilities available to the Minister for the purposes of paragraph (c) of that subsection.

(4) Where the TAB or the Board furnishes or gives access to information to the Minister it is to advise the Minister whether or not in its opinion the public disclosure of the information would adversely affect the commercial interests of the TAB.

(5) If a conflict arises between a duty arising under subsection (3) and a duty arising otherwise under this Act or a duty of confidentiality owed to any person, the duty arising under subsection (3) prevails.

(6) In this section —

“document” includes any tape, disc or other device or medium on which information is recorded or stored mechanically, photographically, electronically or otherwise;

“information” means information specified, or of a description specified, by the Minister that relates to the functions of the TAB;

“parliamentary purposes” means the purpose of —

(a) answering a question asked in a House of Parliament; or

(b) complying with a written law, or an order or resolution of a House of Parliament, that requires information to be furnished to a House of Parliament.

”.

Section 15 amended

11. Section 15 of the principal Act is amended by deleting “Board”, in both places where it occurs, and substituting the following —

“ TAB ”.

Section 16 amended

12. Section 16 of the principal Act is amended —

(a) in subsection (1), by deleting “The Board” and substituting the following —

“ The TAB ”;

(b) in subsection (1) (b), by deleting “it” and substituting the following —

“ the Board ”; and

- (c) in subsection (2), by deleting “Board” and substituting the following —

“ TAB ”.

Section 17 amended

13. Section 17 of the principal Act is amended —

- (a) in paragraph (a) —

- (i) by deleting “Board”, in each place where it occurs, and substituting the following —

“ TAB ”; and

- (ii) by deleting “in any totalisator agency region”;

and

- (b) in paragraph (d), by deleting “exercise such other powers and” and by inserting after “functions” the following —

“ , in relation to such offices or agencies, contracts and arrangements, ”.

Section 18 amended

14. Section 18 of the principal Act is amended by adding the following subsections —

- “ (5) The TAB may have an account or accounts at any bank, and money received by and expenditure of the TAB is to be paid to or from such an account.

(6) In subsection (5) “**bank**” has the meaning assigned to it by the *Financial Administration and Audit Act 1985* for the purposes of section 21 of that Act.

”.

General substitution of “TAB” for “Board”

15. The principal Act is amended, in section 18 and all subsequent sections, by deleting “Board”, wherever it occurs, and substituting the following —

“ TAB ”

unless this Act makes a contrary specific provision.

Section 24 amended

16. Section 24 of the principal Act is amended —

- (a) by inserting after the section designation “24.” the subsection designation “(1)”;
- (b) by deleting the passage commencing “such portion” and ending “novelty bet,” and substituting the following —

“ the amount prescribed as the commission
for a bet of that kind ”;

and

- (c) by adding the subsection following —

“ (2) Where the Board is of the opinion that it is necessary, in order to participate in a combined totalisator pool scheme of a kind to which section 27 refers, to amend the percentage of the commission that would otherwise be payable under

subsection (1) the TAB may determine what that percentage should be and deduction of the amount of commission at the rate so determined, instead of at the rate prescribed, shall be deemed to be lawful. ”.

Sections 26 and 27 inserted

17. The principal Act is amended by inserting, after section 25, the following sections —

Reserve Accounts

- “ 26. (1) For the purpose of establishing reserves, including funds —
- (a) retained to cushion the effects of turnover fluctuations, for supplementing payments made under section 28 where in the opinion of the TAB revenue from its operations is below expectation, and for maintaining the ability to make a distribution to the racing codes;
 - (b) to meet capital commitments, including the repayment of borrowings;
 - (c) to provide for capital development in the long-term interests of the TAB;
 - (d) to meet contingent losses;
 - (e) for the maintenance, repair, improvement and equipment of premises used by the TAB or its agencies; and
 - (f) for such other purposes as the Minister may, by notice published in the *Gazette*, authorize,

the TAB may, subject to the *Financial Administration and Audit Act 1985*, open and operate separate accounts under such headings as may be approved by the Treasurer.

(2) Any funds formerly standing to the credit of the account maintained under section 26 immediately before the coming into operation of section 4 of the *Totalisator Agency Board Betting Amendment Act 1990*, and not used for the purposes thereby authorized, may be credited to an account to be opened under subsection (1).

Combined pool schemes

27. (1) The TAB may participate in a combined totalisator pool scheme with any other State or any Territory or other authority, with intent —

- (a) to establish a larger or national common pool;
- (b) to reduce fluctuations in the odds;
- (c) to pay higher average dividends than might otherwise be possible,

or for such other purposes as the Minister may approve.

(2) Where bets are received by or on behalf of the TAB in respect of a race conducted on a racecourse, or on any sporting event, the TAB may, at discretion, conduct and operate, or otherwise provide for the administration of, any combined totalisator pool scheme, and may distribute or cause to be distributed any dividends, in the State or elsewhere, in accordance with that scheme.

”

Section 28 amended

18. Section 28 of the principal Act is amended, in subsection (1) (d), by inserting before “all other expenses” the following —

“ the respective amounts required for the time being to the credit of any reserve account opened under section 26, and ”.

Section 28A amended

19. Section 28A of the principal Act is amended —

(a) in subsection (1), by deleting “(being no less than 20 per centum and no more than 25 per centum)” and substituting the following —

“ , or where section 24 (2) or section 27 applies the percentage that is determined for the purposes of a combined totalisator pool scheme, ”;

and

(b) in subsection (2) (d), subsection (3) and subsection (4) by deleting “Totalisator Agency Board Sports Betting Account”, wherever it occurs, and substituting the following —

“ TAB Sports Betting Account ”.

Section 30 amended

20. Section 30 of the principal Act is amended by deleting “, or of the *Totalisator Regulation Act 1911*”.

Section 31 repealed

21. Section 31 of the principal Act is repealed.

Section 32 repealed

22. Section 32 of the principal Act is repealed.

Section 36 amended

23. Section 36 of the principal Act is amended —

(a) in subsection (1), by deleting “his duties” and substituting the following —

“ a function related to this Act ”; and

(b) in subsection (2), by deleting “The person first referred to in subsection (1)” and substituting the following —

“ The Commissioner of State Taxation for the purposes of this Act ”.

Section 57 amended

24. Section 57 of the principal Act is amended —

(a) by repealing subsection (1) and substituting the following subsection —

“ (1) The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed, for giving effect to the purposes of this Act. ”;

and

(b) by adding the following subsection —

“ (4) The regulations made by the Board and in operation immediately before the coming into operation of Part 2 of the *Acts Amendment and Repeal (Betting) Act 1992* shall, having been so made with the approval of the Governor for the time being, be taken for all purposes to have been made in accordance with subsection (1) and to continue to have effect. ”.

PART 3 — BETTING CONTROL ACT 1954

Principal Act

25. In this Part the *Betting Control Act 1954** is referred to as the principal Act.

[* *Act No. 63 of 1954 reprinted as at 1 June 1979.*
For subsequent amendments see 1991 Index to Legislation of Western Australia, p.17.]

Section 3 repealed

26. Section 3 of the principal Act is repealed.

Section 4 amended

27. (1) Section 4 of the principal Act is amended in subsection (1) —

(a) by deleting the definition of “betting material” and substituting the following —

“ **“betting material”** includes —

(a) any list, card, board, racebook, ticket, voucher or other record of any race or sporting event or any betting transaction; and

(b) any accounts or accounting record,

however compiled, recorded or stored, and any computer or other machine, used in the course of, or in relation to, betting;

”;

- (b) in the definition of “bookmaker”, by inserting after “current” the following —

“ bookmaker’s ”;

- (c) by deleting the definition of “license” and substituting the following —

“ “**licence**” means a licence issued under this Act; ”;

- (d) by deleting the definitions of “licensing year”, “occupier”, “owner” and “registered premises”;

- (e) in the definition of “race”, by inserting after “greyhounds” the following —

“ , but does not include a race conducted as a trial ”;

- (f) in the definition of “to bet” —

- (i) in paragraph (a), by inserting after “race” the following —

“ or any sporting event in relation to which betting is authorised under this Act ”;

- (ii) in paragraph (b), by deleting the comma and substituting a full stop; and

- (iii) by deleting all the words following paragraph (b).

(2) Section 4 of the principal Act is further amended, in subsection (1), by inserting in the appropriate alphabetical sequence the definitions following —

“ “**approved area**”, in relation to race course, means an area approved by the committee or other controlling authority of that race course as a

place where betting to which section 4B applies may be carried on;

“condition”, in relation to a licence, includes —

- (a) a limitation, restriction or prohibition; and
- (b) any other provision of that licence affecting the authorisation conferred,

whether or not it purports to be expressed by way of a condition;

“employee” means a person employed by a bookmaker as the agent or substitute of that bookmaker or otherwise for the purpose of the carrying on of the business of the bookmaker, whether or not that person receives remuneration in any form from the bookmaker;

“licensed employee” means the holder of a bookmaker’s employee licence issued under section 11;

“machine” includes any computer or other apparatus or device, and any electrical, electronic, mechanical or other equipment or contrivance constructed or adapted for use in or in relation to betting;

“metropolitan area” has the meaning given to that term in the *Town Planning and Development Act 1928*;

“record” means —

- (a) any book, account, accounting records (within the meaning of the Corporations Law), document, paper, return, register or other source of information compiled, recorded or stored in written form or on

microfilm, or by electronic or other means or process;

- (b) the contents, in a printout or other intelligible format, of records that are kept, by computer or otherwise, in a format that is not readily intelligible; and
- (c) any other sources of information prescribed for the purposes of this definition; ”.

(3) Section 4 of the principal Act is further amended by repealing subsection (2) and substituting the subsection following —

“ (2) In this Act unless the context otherwise requires, a reference —

- (a) to a bookmaker, includes a reference to a licensed employee acting as the agent of or substitute for the bookmaker;
- (b) to a betting ticket includes a reference to a betting ticket which is produced or issued by a computer or other machine used to facilitate the betting; and
- (c) to writing includes a reference to the printing of a betting ticket, form or other record produced by a computer or other machine so used. ”.

Section 4B inserted

28. The principal Act is amended by inserting after section 4A the section following —

**Application of this Act
to sporting events**

“ 4B. (1) This Act applies to the conduct of betting, by the holder of a bookmaker’s licence endorsed to authorise such betting, on a sporting event or a contingency where bookmaking on that event, or that contingency, has been approved by the Minister under this section.

(2) The Minister may, upon application by the Board, approve bookmaking on or in relation to —

- (a) any sporting event; or
- (b) a specific contingency of, or relating to, such a sporting event.

(3) An approval given under subsection (2) shall take effect on publication by notice in the *Gazette*, and may be made subject to conditions, or to requirements as to the recording of bets, specified in that notice.

(4) It shall be a condition deemed to be applicable to every approval under this section that the bookmaking is carried on —

- (a) at a race course; and
- (b) subject to a permit having been granted or endorsed for betting of that kind by the committee or other authority controlling the race course,

in accordance with section 12.

(5) The Board and the Commissioner, respectively, shall have the same functions, and may exercise like powers and perform like duties, in relation to betting on sporting events as in relation to a race.

”

“License” amended throughout

29. The principal Act, throughout, is amended —

(a) by deleting “license” and substituting the following —

“ licence ”; and

(b) by deleting “licenses” and substituting the following —

“ licences ”.

Section 5 amended

30. Section 5 of the principal Act is amended —

(a) in subsection (1) —

(i) by deleting “on races” and substituting the following —

“ on a race course ”;

(ii) in paragraph (a), by deleting “on a race course” and substituting the following —

“ on races ”;

(iii) by deleting paragraph (b) and substituting the paragraph following —

“ (b) on a sporting event or contingency, in accordance with section 4B, ”;

and

(iv) by deleting “or the registered premises”;

- (b) by repealing subsections (2a) and (2b); and
- (c) in subsection (3) —
 - (i) by deleting “shall be prosecuted or convicted, or”;
 - (ii) by deleting “, or subject to penal consequences under the provisions of The Criminal Code, 1913, or of” and substituting the following —

“ under ”;
 - (iii) by deleting “by him under and in accordance with the provisions of this Act, but” and substituting the following —

“ pursuant to this Act but, ”;
 - (iv) by deleting “that Code and of that Act,” and substituting the following —

“ that Act ”; and
 - (v) by deleting the passage commencing “are of full force” to the end of the subsection and substituting the following —

“ have effect. ”.

Section 6D inserted

31. The principal Act is amended by inserting after section 6C the section following —

Delegation

“ **6D.** (1) Where the Board considers that any power of the Board should be exercised on its behalf by a person or body other than the Board, the Board may, by resolution,

delegate all or any of its powers or duties, except this power of delegation —

- (a) to a member or a committee of the Board;
- (b) to a person appointed pursuant to section 7; or
- (c) in accordance with section 59 (1) (d) of the *Interpretation Act 1984*, as may be specified in the instrument of delegation,

either generally or as otherwise provided by the instrument of delegation.

(2) A power delegated by the Board shall be exercised by the delegate in accordance with the instrument of delegation, and when so exercised shall, for the purposes of this Act, be deemed to have been exercised by the Board and shall be presumed, unless the contrary is established, to have been exercised by a person duly authorised by a delegation under this section.

(3) A document purporting to be signed by a person as a delegate of the Board shall be deemed, unless the contrary is established, to have been signed by such a delegate and to have been so signed pursuant to the exercise of a power duly delegated to the person by the Board.

”.

Section 11 amended

32. Section 11 of the principal Act is amended —

- (a) by inserting after subsection (1) the subsection following —

“ (1a) On the coming into operation of the amendments to this section effected by

the *Acts Amendment and Repeal (Betting) Act 1992*, a person who immediately prior thereto was the holder of a Certificate of Authority issued by the Board under the *Betting Control Regulations 1978* shall be deemed on that date to have been issued with a licence as a bookmaker's employee. ”;

(b) in subsection (2) —

(i) by deleting “Act, licences are current and operative during the licensing year for which they are issued, or for the unexpired portion thereof, as the case may be, and expire on the thirty-first day of July in each year,” and substituting the following —

“ Act a licence, unless suspended or cancelled pursuant to a determination made administratively by the Board in the exercise of prescribed disciplinary powers, remains current —

(a) in the case of a bookmaker's licence, during the lifetime of the holder or until surrendered; and

(b) in the case of a bookmaker's employee's licence, for a period of 5 years, ”;

and

(ii) by inserting after “licensee”, at the end of the subsection the following —

“ or be, or be capable of being treated as, an asset in or the subject of any partnership ”;

- (c) by repealing subsection (3) and substituting the subsections following —

“ (3) On an application in the prescribed form accompanied by the prescribed fee being lodged with the Board, unless subsection (1a) applies, and on such supporting information as the Board may direct being furnished to the satisfaction of the Board, and in the case of an application for a bookmaker’s licence subject also to subsection (3a), the Board may grant the application and thereupon —

- (a) issue to the applicant a bookmaker’s licence; or
- (b) issue to the applicant, or renew, a licence as a bookmaker’s employee,

but if the application is refused the Board shall not be required to specify any reason.

(3a) On an application for a bookmaker’s licence the applicant shall, on being required to do so by the Board, lodge with the Board —

- (a) a security for the prescribed amount, which shall (notwithstanding that it relates to gaming or wagering) be the liquidated damages that are recoverable in full as a debt due to the Board unless every condition upon which the security is defeasible is proved to have been performed, in the

form of a bond approved by the Board, and shall be —

- (i) accompanied by cash to be held by the Treasurer; or
- (ii) entered into by an insurance company, bank, or person acceptable to the Board,

as security for the due observance by the bookmaker and the employees of the bookmaker of the provisions of this Act and the terms and conditions of any licence issued under this Act to that bookmaker or such an employee;

and

- (b) a statement of the assets and liabilities of the applicant verified in such manner as the Board may require.

(3b) An application for the issue of a bookmaker's licence in relation to any particular code of racing may be granted notwithstanding that the applicant is the holder of a licence as a bookmaker's employee in relation to some other code of racing.

”;

- (d) in subsection (4) —

- (i) by deleting “, during the period of its currency, and”;

(ii) by inserting after “this Act and” the following —

“ the terms and conditions of ”;

(iii) by deleting “either”;

(iv) in paragraphs (a) and (c), by deleting “and, subject to the regulations by his licensed agent” and substituting the following —

“ , or through the agency of a licensed employee, ”;

(v) by deleting paragraph (b); and

(vi) in paragraph (c), by deleting “pursuant to the provisions of subsection (1a) of section five of this Act” and substituting the following —

“ under section 5 (1a) ”;

(e) in subsection (5) —

(i) by deleting paragraph (a);

(ii) in paragraph (b), by deleting “twenty-one” and substituting the following —

“ 18 ”;

and

(f) by repealing subsections (6), (7), (8), (9), (10), (11) and (12) and substituting the subsections following —

“ (6) A licence as a bookmaker’s employee entitles the holder, subject to, and in accordance with, the provisions of this Act and the terms and conditions of the licence, to undertake employment with any bookmaker and in that capacity —

(a) upon a race course, if with the permission of the committee or other controlling authority of that race course —

(i) to make bets, write betting tickets, and carry out the activities of a bookmaker's clerk in relation to the business of a bookmaker;

or

(ii) to act as agent of or substitute for a bookmaker named in that permission;

and

(b) to carry out such other functions under this Act as the Board may, in writing from time to time, authorise.

(7) Where an employee of a bookmaker carries on the business, or any aspect of the business, of that bookmaker —

(a) the bookmaker —

(i) is responsible for all actions of the employee relating to the business, and for all betting tickets written;

(ii) is severally liable in respect of any offence against this Act committed by the employee by way of an act or omission

related to the business of the bookmaker, notwithstanding that the bookmaker may have had no knowledge of or relating to that act or omission or any intention that the act should be done or omission made; and

- (iii) shall be present at or in close proximity to the stand or other approved area where bets are made or tickets written by the employee unless that employee is authorised under this Act to carry on the business as an agent of or substitute for the bookmaker;

and

- (b) the employee shall not, otherwise than in accordance with this Act, make bets or write betting tickets as if the employee were a bookmaker.

(8) When determining whether or not to approve an application under this section, the Board —

- (a) is required to be satisfied that the applicant is a fit and proper person and that no circumstances make it undesirable to grant a licence to that person;

(b) may take into account not only the applicant but also the repute and background of persons suspected by the Board to be associated with the applicant;

and

(c) may cause inquiries to be made of the Commissioner of Police as to the character, antecedents and associates or suspected associates of any applicant, or of any such associate or suspected associate, for which purpose the Commissioner of Police is authorised to institute investigations, disclose criminal records and make reports.

(9) A person who in, or in relation to —

(a) any application or matter to be determined by the Board; or

(b) any —

(i) statement of assets or liabilities;

(ii) return or other record; or

(iii) thing,

required, made, maintained, kept, delivered, furnished or produced under or for the purposes of this Act,

makes a statement that is false or misleading by reason of the inclusion in the statement of false or misleading matter or of the omission from the statement of any matter that is required or may be material, or furnishes or causes to be furnished any record or thing that is false or is misleading in a material particular or which makes any material omission, commits an offence.

Penalty: \$5 000, or imprisonment for one year, or both.

(10) A person who, by an act intended to falsify or destroy the record, alters or destroys any record to which subsection (9) relates commits an offence.

Penalty: \$5 000, or imprisonment for one year, or both.

(11) A person who, otherwise than in the course of a duty under this Act, makes a record of, or divulges or communicates to any person, information coming to the knowledge of that person by reason of —

- (a) a report to be made or made to the Board by the Commissioner of Police; or
- (b) this Act, in the course of the administration of this Act,

commits an offence.

Penalty: \$5 000.

(12) The Board may —

- (a) apply a security in relation to a betting debt, regardless of the date the debt was incurred by the bookmaker;
- (b) terminate a bond in accordance with its terms;
- (c) advertise, and call for claims, in respect of betting transactions and fix a period after the expiry of which claims may be disregarded;
- (d) hold any security until after the expiry of any period fixed for the filing of claims, and for a reasonable period thereafter;
- (e) where a bond is terminated, or if the Board otherwise determines that the security held should be reviewed, require a licensee to furnish —
 - (i) a statement of assets and liabilities;
 - (ii) further or other security;or
 - (iii) both,

and if the licensee fails to do so within the time fixed by the Board the operation of the licence may be suspended until

the licensee has complied to the satisfaction of the Board; and

- (f) deduct from any sum recovered by the Board under a security the costs and expenses of that recovery.

(13) After deduction of the costs and expenses authorised by subsection (12) (f), the balance of any sum recovered by the Board under a security shall be applied —

- (a) firstly, in paying any tax, duty, fines or penalties payable under any written law by the bookmaker;
- (b) secondly, in payment or rateably in payment of what the Board decides are the betting debts of the bookmaker; and
- (c) if there is any sum then remaining, in repayment to the surety or bookmaker from whom the sum was recovered.

(14) Before a security lodged with the Board is discharged the Board may require a licensee, or former licensee, in respect of whose licence the security was lodged to produce at the office of the Board all records relating to the conduct of business under that licence, or such of those records as the Board specifies in writing, for inspection by the Board, and a person who contravenes any such requirement commits an offence.

Penalty: \$5 000.

(15) A member or officer of the Board may inspect and take copies of any records produced to the Board under this Act, for use at the discretion of the Board.

(16) A person who carries on the business of bookmaking, or any aspect of the business of a bookmaker, otherwise than in accordance with —

- (a) this Act;
- (b) the terms and conditions of, and any endorsement on, a licence;
and
- (c) the terms of, and conditions applicable to, a permit issued under section 12, in so far as is not inconsistent with this Act or that licence,

commits an offence.

Penalty: \$5 000.

(17) The suspension, cancellation or surrender of a licence —

- (a) does not affect the validity of a bond or other security entered into for the purposes of this Act by the holder or former holder of the licence, which security shall continue to have effect until discharged by the Board; or
- (b) release the holder or former holder of the licence from any obligation in relation to a bet.

(18) Where the holder of a licence is convicted of an offence under any other written law, or employs or engages in relation to the business carried on under the licence a person who is so convicted, the holder of the licence shall notify the Board of the conviction as soon as may be practicable and shall furnish to the Board such information regarding that offence and the conviction as the Board may require. ”.

Section 12 amended

33. Section 12 of the principal Act is amended —

- (a) in subsection (1), by inserting after “bookmaker” the following —

“ or the employee or agent of a bookmaker ”;

- (b) in subsection (2), by deleting “bookmakers holding current and operative licenses” and substituting the following —

“ the holders of a licence authorising the carrying on of that activity under section 11 and, where appropriate, endorsed for the purposes of section 4B ”;

- (c) by repealing subsection (2a), subsection (2b) and subsection (2c); and

- (d) by adding the subsections following —

“ (4) The committee or other authority controlling a race course may —

- (a) permit a bookmaker to use a licensed employee, being an

employee specifically nominated to and approved by that authority for that purpose —

- (i) as substitute bookmaker on behalf of the bookmaker where that bookmaker is absent on account of sickness, leave or other circumstances acceptable to that authority;
- (ii) as the agent of that bookmaker to operate a second stand, or in another approved area, on behalf of that bookmaker at that race course, either generally or on a particular occasion, whether or not subparagraph (i) applies;

or

- (iii) as the agent of that bookmaker, to operate on behalf of that bookmaker at that race course notwithstanding the absence of the bookmaker, in the event of there otherwise being, in the opinion of that authority, insufficient bookmakers to meet public demand;

and

- (b) in respect of all or any of the types of betting authorised by the licence, permit the carrying

on of business and the making of bets at that race course by a bookmaker.

(5) The committee or other authority controlling a race course shall —

(a) upon request, furnish to the Board a plan showing —

(i) the situation of any betting ring or approved area, or any proposed betting ring or approved area, on the race course; and

(ii) the positions and numbers of the stands to be allotted, and to whom they are allotted;

(b) not permit —

(i) any person to carry on the business, or any aspect of the business, of a bookmaker on that race course unless the person holds a licence so to do under this Act;

(ii) any bookmaker to bet or offer to bet from a position other than the betting ring or an approved area and at the stand allotted by the racing club; or

- (iii) any person to bet, or offer to bet, with any person other than a bookmaker;
- (c) ensure that —
- (i) any duplicate record, or other betting material, required to be delivered to a person authorised by the racing club to receive it is duly received at the prescribed time by a person so authorised;
 - (ii) duplicate records are legible and complete, including any registered sheet number;
 - (iii) a return in the prescribed form, setting out the prescribed particulars of bookmakers, the consideration for bets and the betting tax paid and payable, is furnished to the Commissioner in the prescribed manner; and
 - (iv) payment of bookmaker's betting tax is duly made;
- (d) report to the Board, as soon as is practicable, the result of any hearing or appeal, relating to improper conduct or a breach of the rules on the part of a bookmaker or licensed employee, conducted by or on behalf of that committee or other authority.

(6) Where an application by a licensee to the committee or other authority controlling a race course for a permit is refused under this section, or the permit of a licensee is cancelled or suspended, the committee or other authority controlling the race course to which that application or permit related shall forthwith inform the Board, in writing, of —

- (a) the fact of the refusal, cancellation or suspension and the date it took effect; and
- (b) their intentions in relation to applications for future permits made by that applicant or licensee.

”.

Section 13 repealed

34. Section 13 of the principal Act is repealed.

Section 14 amended

35. (1) Section 14 (1) of the principal Act is amended —

- (a) by deleting the respective definitions of “off-course turnover” and of “proclaimed day”; and
- (b) in the definition of “on-course turnover”, by —
 - (i) inserting after “for another person but” a hyphen and the paragraph designation “(a)”; and
 - (ii) after “in the capacity of bookmaker”, deleting the colon and substituting a semi-colon and the word “and”; and

(iii) by deleting “Provided however, that” and substituting the paragraph designation “(b)”.

(2) Section 14 (2) of the principal Act is amended —

(a) in paragraph (a), by deleting “off-course turnover or”;

and

(b) in paragraph (b), by deleting “whether off-course or on-course,”

Section 15 amended

36. Section 15 of the principal Act is amended —

(a) in subsection (1) —

(i) by deleting “bookmaker”, where it first occurs, and substituting the following —

“ person ”;

(ii) by deleting “in person”;

(iii) after “bookmaker”, where it secondly occurs, by inserting the following —

“ (whether in person, or as the agent of
or substitute for a bookmaker) ”;

and

(iv) by deleting “the provisions of this section apply” and substituting the following —

“ subsections (2), (3), (4) and (5) of this section shall apply as if a reference to

the bookmaker included a reference to
that person ”;

(b) in subsection (2) —

(i) by deleting “in the form” and substituting
the following —

“ on a form provided or ”;

(ii) by deleting “signed by the bookmaker and in
such manner” and substituting the following —

“ so ”;

(iii) by deleting “original”, where it secondly occurs,
and substituting the following —

“ original if the record is handwritten,
and in a permanent documentary
form if the record is to be made using
a computer or other machine, ”;

(iv) by deleting “his bets made” and substituting the
following —

“ the bets made by that person ”;

(v) in paragraph (a), by deleting “and”; and

(vi) in paragraph (b), by deleting “elsewhere.” and
substituting the following —

“ elsewhere; and

(c) each sporting event on
which bets are made,

and the bookmaker in person, or the
agent or substitute where a person is

so acting for the bookmaker, shall
sign that record. ”;

(c) in subsection (3) —

(i) in paragraph (a), by deleting “at the conclusion of the race; and” and substituting the following —

“ before the conclusion of that race as soon as may be practicable after its commencement; ”;

(ii) in paragraph (b), by deleting “elsewhere than at the meeting, at the conclusion of the meeting.” and substituting the following —

“ otherwise than at that race course and during the meeting at which the bet was made, at the conclusion of the meeting at which the bet was made; ”;

and

(iii) by inserting after paragraph (b) the following —

“ (c) betting on sporting events, at the conclusion of the race meeting at which the bet was made,

and the bookmaker in person, or the agent or substitute where a person is so acting for the bookmaker, shall ensure that delivery is correctly effected. ”;

(d) in subsection (4) —

(i) by inserting after “bookmaker”, where it first occurs, the following —

“ in person, or the agent or substitute where a person was at the time of the race meeting so acting for the bookmaker, ”;

and

(ii) by deleting “within seven days of the race meeting” and substituting the following —

“ within 3 days of the race meeting if the race meeting is one on which agencies of the Totalisator Agency Board have been open for the acceptance of investments thereon and within 7 days otherwise ”;

and

(e) in subsection (5), by deleting the passage in paragraph (a) commencing “shall, prior” and ending with “seventy”.

Section 16 amended

37. Section 16 of the principal Act is amended —

(a) in subsection (1), by deleting “in the capacity of bookmaker, a bookmaker his agent or employee on his

behalf makes bets at registered premises, or” and substituting the following —

“ a person bets as a bookmaker (whether in person or as the agent of or substitute for the bookmaker) ”;

(b) in subsection (2) —

(i) by deleting “bookmaker”, where it first occurs, and substituting the following —

“ person ”;

(ii) by deleting “in form” and substituting the following —

“ , in a manner ”;

(iii) by deleting “signed by the bookmaker and in such manner” and substituting the following —

“ so ”;

(iv) by deleting “bets made by the bookmaker himself or by his employee on his behalf” and substituting the following —

“ the bets made by that person ”;

and

(v) by deleting “State.”, in paragraph (e), and substituting the following —

“ State,

and the bookmaker in person, or the agent or substitute where a person is

so acting for the bookmaker, shall
sign that record. ”;

and

(c) in subsection (3) —

(i) by deleting “bookmaker”, where it first occurs,
and substituting the following —

“ person ”; and

(ii) in paragraph (b), by inserting after “bookmaker”,
where it first occurs, the following —

“ in person, or the agent or substitute
where a person is so acting for the
bookmaker, ”.

Section 16A inserted

38. The principal Act is amended by inserting after section 16
the section following —

Books of account, records etc.

“ **16A.** (1) A bookmaker shall —

(a) prepare and keep in the English language a
true, complete, accurate and legible written
record —

(i) setting out the financial position of
the business carried on, in such a way
as will enable the accounts to be
conveniently inspected and properly
audited; and

(ii) showing full particulars and details of each betting transaction made by or on behalf of that bookmaker and the betting turnover resulting,

in such manner as is required by or under this Act, or by the Board or the Commissioner;

- (b) prepare and deliver correctly the returns, forms or other records required by or under this Act, entering accurately and in a manner approved by the Commissioner full particulars and details of each betting transaction and the betting turnover resulting;
- (c) for the purpose of recording bets —
- (i) use such a form and such a method of recording as may be required by or under this Act and is approved by the Board;
- (ii) make the required entries in numerical sequence; and
- (iii) ensure that the requirements of section 17A are complied with;
- (d) ensure that no alteration, erasure or obliteration in respect of an entry of a bet or in any record is made in such a manner as to prevent its legibility;
- (e) where an error is made in the recording of a bet a person making any alteration to

that record shall, if the record is handwritten —

- (i) rule through the incorrect entry, preserving its legibility; and
- (ii) make the correct entry immediately under it,

and if the record was made using a computer —

- (iii) cause the word “CANCELLED” to be endorsed adjacent to such details of the incorrect entry as will enable the reference to be identified; and
 - (iv) make the correct entry immediately thereafter;
- (f) not remove, or permit to be removed, any part of any book of forms or of any form or other record, except for the purpose of delivering it to a racing club, the Board or the Commissioner as required by or under this Act;
 - (g) ensure that any duplicate of a form or other record required by or under this Act is clearly legible and an exact copy of the original;
 - (h) retain such of the records and betting material relating to the business carried on by or on behalf of that bookmaker as the Board or the Commissioner may from time to time in writing require for 5 years or such longer period after the completion of the transaction to which they relate as may be so required; and

- (j) on being required to do so by the Board, the Commissioner or some other person authorised by or under this Act so to require —
 - (i) notify the Board or the Commissioner, as may be required, where any betting material, form or other record may be inspected; and
 - (ii) furnish, deliver or produce any such betting material, form or other record to the Board or the Commissioner, or to a person authorised for the purpose under the Act, as may be required.

(2) If default is made in complying with a provision of subsection (1), any licensed employee who is in default and any bookmaker who failed to take all reasonable steps to secure compliance with the provision commits an offence.

”.

Section 17 amended

39. Section 17 of the principal Act is amended —

- (a) by deleting “or his agent or employee on his behalf” and substituting the following —

“ or a licensed employee on behalf of that bookmaker ”;

and

- (b) by inserting after “race”, in each place where it occurs, the following —

“ or sporting event ”.

Section 18 amended

40. Section 18 of the principal Act is amended —

- (a) by deleting “bookmaker”, where it first occurs, and substituting the following —

“ person ”; and

- (b) by deleting “or by his agent or employee on his behalf” and substituting the following —

“ or a licensed employee on behalf of the bookmaker ”.

Sections 18A and 18B inserted

41. The principal Act is amended by inserting after section 18 the sections following —

Payment of tax

“ 18A. (1) A racing club shall forward to the Commissioner, within 14 days after the conducting by it of a race meeting within the metropolitan area or within 21 days if the race meeting conducted by it is held in the country, a return in the form approved by the Commissioner setting out —

- (a) the names of all persons who have bet as bookmakers at the race meeting;
- (b) the total amount of money paid or promised to the bookmaker as the consideration for bets made at the meeting by him in the capacity of bookmaker; and
- (c) the total amount of bookmaker’s betting tax paid by the bookmakers to the racing club

and the balance of that amount payable to the Commissioner, after the racing club has deducted the amount due to it pursuant to section 15.

(2) When and as often as the return required by this section is forwarded to the Commissioner it shall be accompanied by —

- (a) the payment to the Commissioner of the amount shown in the return as the net amount of bookmaker's betting tax; and
- (b) a statement of the total amount of stakes paid by the club.

Assessments, and additional tax

18B. (1) Where the Commissioner finds that bookmakers' betting tax or further tax is payable by any bookmaker or any racing club, the Commissioner may —

- (a) assess the amounts of money paid or promised as the consideration for bets which are made by or on behalf of a bookmaker and in respect of which a liability exists for the payment of bookmakers' betting tax; and
 - (b) calculate the bookmakers' betting tax payable.
- (2) Where —
- (a) the Commissioner is unable to ascertain the amount of bookmaker's betting tax or further tax properly payable by reason of a bookmaker or racing club failing to keep or

deliver any return or other record, or to furnish any information, as and when required by this Act or by the Commissioner, or because the Commissioner has reason to believe or suspect that any record delivered or information furnished is materially incomplete and inaccurate; or

- (b) for any other cause the Commissioner has reason to believe or suspect that any bookmaker or racing club is liable to pay bookmakers' betting tax, whether or not a return was delivered in respect of that tax,

the Commissioner may cause an assessment to be made of the amount upon which, in the judgement of the Commissioner, bookmakers' betting tax or further tax ought to be levied.

(3) Where an assessment under subsection (2) is made in relation to any bookmaker or racing club —

- (a) the Commissioner shall cause notice in writing of the assessment and of the bookmakers' betting tax or further tax, and of any additional tax payable under subsection (5), to be served on the bookmaker together with the calculation of, and reasons for, such assessment; and
- (b) the bookmaker on whom the notice is served shall be liable to pay the amount of the bookmakers' betting tax or further tax, and any additional tax, in accordance with the notice of assessment on or before the date specified in that notice, except in so far as the bookmaker may establish that the assessment is excessive.

(4) An omission to give the notice required by subsection (3) does not invalidate any assessment or calculation made under this section.

(5) A bookmaker who becomes liable to pay bookmakers' betting tax or further tax by virtue of an assessment made under subsection (2) shall also be liable to pay, by way of additional bookmakers' betting tax, an amount equal to the amount of the tax payable by virtue of that assessment but the Commissioner may, for reasons which the Commissioner thinks sufficient in any particular case, remit the additional tax, wholly or in part.

(6) Where the Commissioner finds that an omission has been made from a record required to be made or a return required to be delivered under this Act in respect of any amount which the Commissioner has reason to believe or suspect represents a bet made, the Commissioner may determine that the bet of that amount was made and may cause an assessment to be made under subsection (2) as though information had been furnished which was materially incomplete and inaccurate.

”.

Section 20 amended

42. Section 20 of the principal Act is amended —

(a) in subsection (1), in paragraph (a), by deleting “or his agent or employee” and substituting the following —

“ or any licensed employee or other person who the officer has reason to believe is or has been acting on behalf of a bookmaker ”;

- (b) in subsection (2), in paragraph (a), by deleting “or his agent” and substituting the following —

“ or any person who the officer has reason to believe is or has been acting as a licensed employee or otherwise on behalf of a bookmaker ”;

- (c) in subsection (3) —

- (i) in paragraph (a), by deleting “those things” and substituting the following —

“ any thing required under subsection (1) or (2) ”;

and

- (ii) at the end, by adding the following penalty provision —

“ Penalty: \$500 unless subsection (6) applies. ”;

and

- (d) by adding the subsections following —

“ (4) A member of the Board, the Commissioner, any person authorised by the Board or the Commissioner, a person who is an authorised officer within the meaning of that term in the *Gaming Commission Act 1987* on production by that person of the certificate evidencing appointment as such under that Act, and any police officer has at all times authority to enter, and authority to inspect, any —

- (a) race course;

- (b) premises to which section 5 (1a) for the time being applies; or
- (c) premises, vehicle or vessel from or on which a bookmaker carries on business.

(5) A person refusing to admit, or otherwise hindering, delaying or obstructing, a person authorised under subsection (4) in the exercise of that authority commits an offence.

Penalty: \$500, unless subsection (6) applies.

(6) A bookmaker or licensed employee —

- (a) contravening subsection (3); or
- (b) hindering, delaying or obstructing a person referred to in subsection (4) in the exercise of any power or duty conferred on such a person by or under this Act,

commits an offence.

Penalty: \$2 000.

”.

Section 21 amended

43. Section 21 of the principal Act is amended —

- (a) by deleting “No bookmaker, and no employee of a bookmaker shall knowingly” and substituting the following —

“ A bookmaker, or a licensed employee on behalf of a bookmaker, shall not knowingly ”;

- (b) repealing paragraphs (c), (d), (f), (g), (h), (i), (j) and (k) and the penalty provision; and

- (c) in paragraph (e), by deleting “his business of betting except as prescribed by or under this Act” and substituting the following —

“ the carrying on of the business of the bookmaker, or in relation to any kind of betting or any offer to bet, in a manner prohibited by or under this Act ”.

Section 22 amended

44. Section 22 of the principal Act is amended —

- (a) by deleting paragraph (a); and

- (b) in the penalty provision —

- (i) by deleting “ten dollars” and substituting the following —

“ \$50 ”; and

- (ii) by deleting “fifty dollars” and substituting the following —

“ \$250 ”.

Section 23 amended

45. Section 23 of the principal Act is amended —

(a) in subsection (1) —

(i) in paragraph (a), by deleting “place is registered under this Act as registered premises, or is a race course and then only while” and substituting the following —

“ premises are premises to which section 5 (1a) for the time being applies, or the place is a race course where ”;

and

(ii) by deleting the penalty provision and substituting the following —

“ Penalty: \$500. ”; and

(b) by repealing subsection (2) and substituting the following —

“ (2) No person shall knowingly —

(a) place a bet for a person who is apparently under the age of 18 years; or

(b) place a bet for, or assist in laying, procuring or obtaining a bet with any bookmaker for, a person to whom an order made under section 25 applies.

Penalty: \$200. ”.

Section 24 repealed

46. Section 24 of the principal Act is repealed.

Section 25 amended

47. Section 25 of the principal Act is amended —

(a) in subsection (1), by deleting “impoverish himself to such a degree as to expose himself or his family to want” and substituting the following —

“ be impoverished to a degree where that person or any member of the family of that person is in want ”;

(b) in subsection (3), by deleting “fifty dollars” and substituting the following —

“ \$250 ”; and

(c) by repealing subsection (4).

Section 26 repealed

48. Section 26 of the principal Act is repealed.

Section 27 amended

49. Section 27 of the principal Act is amended —

(a) by repealing paragraph (a);

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- (b) in paragraph (b), by deleting “, not being registered as registered premises, is on a race course and then only while” and substituting the following —

“ is a race course where ”;

- (c) by deleting “or”, immediately after paragraphs (b), (c) and (ca);

- (d) in paragraph (c), by deleting “in either of those cases the place is opened and used” and substituting the following —

“ the betting is carried on ”; and

- (e) by deleting the penalty provision and substituting the following —

“ Penalty: \$2 500, or imprisonment for 6 months, or both. ”.

Section 28 amended

50. Section 28 of the principal Act is amended, in subsection (1), by deleting “shall” and substituting the following —

“ may ”.

Section 29 repealed

51. Section 29 of the principal Act is repealed.

Section 30 amended

52. Section 30 of the principal Act is amended —

(a) by inserting after the section designation “30.” the subsection designation “(1)”;

(b) by deleting “omits to do anything directed to be done or does or attempts to do anything forbidden to be done by or under this Act commits an offence against this Act and” and substituting the following —

“ contravenes or attempts to contravene any provision of this Act, the regulations or the Rules of Betting prescribed ”;

(c) by deleting “, he”;

(d) by deleting “offence”, where it first occurs in paragraph (a) and paragraph (b), and substituting the following —

“ contravention ”;

(e) in paragraph (a) —

(i) by deleting “two hundred dollars” and substituting the following —

“ \$1 000 ”; and

(ii) by deleting “two dollars” and substituting the following —

“ \$50 ”;

(f) in paragraph (b), by deleting “two hundred dollars” and substituting the following —

“ \$1 000 ”; and

(g) by adding the subsection following —

“ (2) Any holder of a licence or authorisation under this Act who —

(a) causes, suffers or permits any other person to contravene a provision of this Act, the regulations or Rules of Betting prescribed; or

(b) takes part in a betting transaction knowing that the transaction involves such a contravention,

commits an offence and is liable to the punishment to which a person convicted of that contravention would be liable. ”.

Section 30A inserted

53. After section 30 of the principal Act the following section is inserted —

Prosecution of offenders

“ **30A.** (1) An offence under this Act may be prosecuted —

(a) in relation to records or bookmakers' betting tax, by the Commissioner; or

(b) by or on behalf of the Board.

(2) The conviction or acquittal of a person on a complaint of an offence under this Act shall not prevent a further prosecution and conviction in respect

of a continuation of that offence after the date on which he was convicted or acquitted. ”.

Section 31 repealed and a section substituted

54. Section 31 of the principal Act is repealed and the following section is substituted —

Conduct of betting

“ **31.** (1) A bookmaker shall not —

(a) employ —

(i) in the business of the bookmaker or as an agent in relation to that business, any person other than a licensed employee; or

(ii) on a race course, an employee who does not hold a permit from the committee or other controlling authority of that race course in respect of the aspects of the business to be carried on by that employee;

(b) except in so far as the licence of a licensed employee may authorise that employee to carry on a specific aspect of the business of that bookmaker, fail personally —

(i) to conduct the business;

(ii) to make every bet; and

(iii) in respect of each bet, to write and deliver to the bettor the betting ticket;

- (c) allow any other person to have an interest, financial or otherwise, in the business of that bookmaker, whether that interest is direct or indirect;
- (d) pay or promise to pay to a person a sum of money the amount of which in any way depends upon —
 - (i) the amount of the profit or loss sustained by the bookmaker in betting related to the business of that bookmaker; or
 - (ii) the results of that betting;
- (e) pay or give, or promise to pay or give, to a person any payment, fee, commission, remuneration, reward or any valuable consideration whatsoever in consideration of that person on behalf of any other person —
 - (i) making; or
 - (ii) taking,
bets with that bookmaker;
- (f) receive, or agree or promise to receive, as the consideration for a bet the delivery of, or an agreement or promise to deliver, property other than money;
- (g) refuse or neglect to pay a bet as and when directed by the Board; or
- (h) bet on any event other than —
 - (i) a race or the result of a race; or

- (ii) an approved sporting event, or an approved contingency related to an approved sporting event.

(2) A bookmaker who refuses or neglects to repay the bettor, immediately on demand, any money received by the bookmaker in connection with a bet made contrary to any provision of this Act, the regulations or the Rules of Betting prescribed, commits an offence.

”.

Section 31A repealed and a section substituted

55. Section 31A of the principal Act is repealed and the following section is substituted —

Evidence

“ 31A. (1) A person is not excused from giving information or producing records or any other thing when required to do so under this Act on the ground that the information, records or other thing might tend to incriminate him, but his answer to any question asked, his giving of any other information, the production by him of any records or other thing or his compliance with the requirement in any other respect is not admissible in evidence against him in any criminal proceedings, other than proceedings under this Act.

(2) In any proceedings under this Act —

- (a) it shall not be necessary to prove the appointment of the Commissioner or a member of the Board, and all courts and persons acting judicially shall take judicial notice of a signature attached or appended to a document purporting to be issued under this Act if the signature purports to

be that of a person who at the relevant time is or was the holder of such an office, unless the contrary is proved;

(b) a document signed by a member of the Board stating that at the time or during the period stated in the document —

(i) a person named in the document was an authorised person for the purposes of this Act specified in the document;

or

(ii) a licence, permit or approval was granted, a requirement was made, or a direction or notice was given, or was in force or had effect, or had been amended, or was not in force or was of no effect, in relation to the circumstances specified in the document, or had been served on any person, under this Act,

shall be evidence of the facts stated and, in the absence of evidence to the contrary, conclusive evidence;

(c) a document or writing purporting to be a copy of any licence, permit or approval granted, or of any requirement made or direction or notice given, under this Act shall be evidence of the licence, permit, approval, certificate, requirement, direction or notice of which it purports to be a copy and, in the absence of evidence to the contrary, conclusive evidence;

- (d) an averment that —
 - (i) a person is of a specified age or is under or over a specified age;
 - (ii) that any place at which an offence was committed was a place to which a licence, permit or approval applies or did not apply;
 - (iii) a specified term or condition had effect in relation to any specified licence, permit or approval;
 - (iv) in proceedings against a person in his capacity as the holder of a licence, permit or approval, that the person is the holder of a specified licence, permit or approval; or
 - (v) that a person is a person to whom a specified licence, permit or approval was not issued,

shall be evidence of the facts stated and, in the absence of evidence to the contrary, conclusive evidence;

- (e) where an officer authorised for the purpose by the Board, the Commissioner or a racing club, a police officer or a person acting at the request of such an authorised officer or police officer, enters into any bet and a complaint arising out of the bet is made against another person, on the hearing of the complaint that authorised officer, police officer or person acting on request —
 - (i) is deemed not to be an accomplice of the person charged and not to be guilty of an offence; and

(ii) may give evidence,

and his evidence shall be deemed not to be the evidence of an accomplice;

(f) a person may be convicted on the uncorroborated evidence of an accomplice, and shall not be acquitted by reason only that the only evidence is the uncorroborated evidence of an accomplice unless the truth of that evidence is suspect;

and

(g) an act, admission or statement of an employee or agent of the person against whom the complaint is made is admissible as evidence, whether it is done, made or given in the presence of that person or not.

(3) The Commissioner, or an officer authorised by the Board or the Commissioner, and any police officer may seize and take before a justice any betting material, money or other thing which he has reasonable cause to believe may be required as evidence for the purpose of proceedings in respect of an offence under this Act or which appears to him to contravene a condition of any licence, permit or approval under this Act.

”.

**Section 32 repealed and
a section substituted**

56. Section 32 of the principal Act is repealed and the following section is substituted —

Disputes as to bets with bookmakers

“ **32.** (1) A question or dispute as to whether a bet alleged to have been made with a bookmaker on a race course was so made, or as to the amount payable in respect of such a bet —

(a) shall be referred in the first instance to and determined by the stewards of the race meeting, or as the committee or other authority controlling the race course may direct; and

(b) may, by any party to the bet affected by that determination, be referred to the Board on an appeal from that determination made under subsection (2).

(2) An appeal from a determination made in the first instance shall be referred to the Board by notice in writing delivered to the Board —

(a) if the race course is in the metropolitan area, within 3 days; or

(b) in any other case, within 7 days,

of that determination, but may be heard at the discretion of the Board where special circumstances exist if lodged otherwise, and shall be decided by the Board as an administrative act.

(3) Where any question or dispute as to a bet relates only to a proportion of the amount otherwise

payable then payment shall be made on the bet in so far as it is not so questioned or disputed.

(4) A bookmaker shall abide by —

- (a) any determination in the first instance made under subsection (1), but if it is the intention of the bookmaker to withhold payment of the bet pending a decision of the Board on an appeal made under subsection (2) the bookmaker shall give to any other party to the question or dispute an acknowledgment in writing setting out the amount, nature and circumstances of the bet as alleged by the bookmaker and the fact of any determination made; and
- (b) any decision of the Board made under subsection (2).

(5) Where a person is entitled to be given an acknowledgment of an alleged bet under subsection (4) (a), and payment on that bet is not made by the bookmaker, then on the expiry of the period permitted by subsection (2) if an appeal in respect of a determination of the question or dispute has not been referred to the Board for decision that person may apply to the Board for a direction that the bet, on terms decided by the Board, shall be payable by the bookmaker.

”.

Section 32A inserted

57. After section 32 of the principal Act the following section is inserted —

Disciplinary powers

“ **32A.** (1) The powers conferred by this section shall be exercised by the Board administratively, but the Board may require the holder of a licence to show cause why such a power should not be exercised.

(2) Where the Board is satisfied that the holder of a licence —

(a) has —

(i) been convicted of an offence under this Act;

(ii) at a material time employed or engaged, in relation to the business carried on under the licence, a person who in the course of that business committed an offence under this Act of which that person was convicted; or

(iii) has been convicted, or so employed or engaged a person who was convicted, of an offence, other than an offence under this Act, but has not notified the Board of that conviction;

(b) notwithstanding that proceedings for an offence under this Act have not been taken, or are pending, has contravened —

(i) a provision of this Act, the regulations or the Rules of Betting prescribed; or

- (ii) a term or condition of the licence, or has caused or permitted a licensed employee so to do;
- (c) is guilty of conduct which renders it undesirable in the public interest that the licence should continue to be held; or
- (d) has become incapable of properly conducting the business, or any aspect of the business, of a bookmaker,

the Board may take disciplinary action.

(3) Where the Board determines that a proper cause for disciplinary action exists the Board may by order —

- (a) issue a reprimand;
- (b) impose a condition on, or otherwise limit the authority conferred by, the licence;
- (c) vary or cancel any term or condition to which the licence is subject;
- (d) suspend the operation of the licence, or of any term or condition of the licence —
 - (i) until further order; or
 - (ii) for a specified period;
- (e) cancel the licence;
- (f) require the holder of the licence to enter into a bond or otherwise give security for future conduct; and

- (g) give directions as to the conduct of business to which the licence relates.

(4) Where the Board is satisfied that the holder of a licence as a bookmaker —

- (a) has carried on, or attempted to carry on, the business of a bookmaker during any period when the operation of that licence was suspended; or
- (b) has committed, or has caused or permitted the commission of, a continuing breach of a provision the contravention of which was the subject of an order made under this section that has continuing effect,

the Board may with immediate effect make a further order that the licence shall be cancelled.

(5) An order made under this section —

- (a) may be varied or revoked, as the Board thinks fit; and
- (b) subject to subsection (4), takes effect on written notice of it being given to the holder of the licence.

(6) Where the operation of a licence is suspended or a licence is cancelled —

- (a) the Board may advertise the fact, and call for claims from persons to whom the holder or former holder is indebted in respect of betting transactions;
- (b) section 11 (12) and (13) apply in relation to the application of any security or the

termination of any bond that relates to the licence;

- (c) the holder or former holder shall upon demand reimburse the Board for any costs incurred under paragraphs (a) or (b); and
- (d) the obligation under any security lodged is not thereby discharged and its validity is not affected.

”.

Section 33 amended

58. Section 33 of the principal Act is amended —

- (a) by inserting the new paragraph (a) following —

“ (a) make provision for betting under this Act on sporting events and contingencies related to those events, the recording of such bets and as to the liabilities arising out of such bets;

”;

- (b) in paragraph (b) —

- (i) by deleting subparagraphs (ia), (x), (xii), (xiii), (xiv), (xv), (xvi) and (xvii);

- (ii) by inserting the subparagraphs following —

“ (xii) meetings and procedure of the Board;

(xiii) the payment and charges in respect of matters other than licences or applications for licences;

(xiv) the supply and use of betting material;

(xv) the assessment, payment and recovery of bookmakers' betting tax, the kinds of bet that may be made or accepted and Rules of Betting regulating betting by or with bookmakers generally or in specific circumstances, the maximum amount which a bookmaker may be obliged to accept on any one bet, bets with other bookmakers, and betting boards;

(xvi) the duties of racing clubs in relation to the administration of this Act; ”;

and

(c) in subparagraph (xviii) —

(i) by deleting “as the” and substituting the following —

“ a monetary ”; and

(ii) by deleting from “issued” to the end of the subparagraph and substituting the following —

“ , not greater than the amount prescribed as a general penalty under section 30. ”.

First Schedule repealed

59. The First Schedule to the principal Act is repealed.

PART 4 — FURTHER AMENDMENT OF THE *BETTING CONTROL ACT 1954*

Principal Act

60. In this Part the *Betting Control Act 1954** is referred to as the principal Act.

[* *Act No. 63 of 1954 reprinted as at 1 June 1979.*
For subsequent amendments see 1991 Index to Legislation of Western Australia, p. 17.]

Sections 17B to 17D inserted

61. The principal Act is amended by inserting after section 17A the sections following —

Use of the totalisator by racing clubs

“ 17B. (1) The possession by the committee or other authority controlling a race course of a totalisator at that race course shall be lawful if —

(a) it was authorised —

(i) immediately prior to the coming into operation of this section, by or under *The Totalisator Act 1883* or the *Totalisator Act Amendment Act 1899* or pursuant to a licence under the *Totalisator Regulation Act 1911*; or

(ii) by the Board under section 17D;

and

(b) that authorisation is not suspended or cancelled by the Board under subsection (4),

and the operation of that totalisator by or on behalf of that committee or other authority for the purpose of making bets during the day of any race meeting conducted there, or in relation to prescribed activities with respect to the transmission of bets received to a totalisator pool operated by another operator so authorised, is hereby authorised, subject to subsection (3) and section 17C.

(2) Subject to subsection (3), it shall be lawful for any person, with the express or implied permission of the operator of that totalisator, to participate in the use of, and the facilities afforded by, a totalisator operated, or purporting to be operated, in accordance with the authorisation conferred by subsection (1).

(3) No person under the age of 18 years shall —

(a) participate in; or

(b) be permitted by the operator of that totalisator to participate in,

the use of, or the facilities afforded by, a totalisator operated, or purporting to be operated, in accordance with an authorisation conferred by subsection (1).

(4) For the purposes of section 32A, an authorisation conferred by this section may be dealt with as though it were a licence held by a bookmaker, and the committee or other authority operating a totalisator on a race course shall be liable and may be dealt with as though the holder of such a licence.

Approved organizations conducting foot-races

17C. Notwithstanding the application of this Act to foot-races conducted by an approved organization at an approved place, and the deeming provisions of section 4A, section 17B shall not be taken to make the

possession of a totalisator by such an organization lawful or to authorize the operation of a totalisator by such an organization for the purpose of making bets on a foot-race.

Board may authorize possession and operation of a totalisator by a racing club

17D. Where the Board is satisfied that a racing club has been established, the committee or other authority controlling the racecourse on which that body conducts race meetings may, on application being made to the Board in the prescribed manner and such information as may be prescribed or required by the Board having been furnished, be granted by the Board an authorisation to possess and operate a totalisator at that racecourse.

”.

Section 22 amended

62. Section 22 of the principal Act is amended by inserting a new paragraph (a), as follows —

“ (a) bet with a totalisator, or be permitted by a racing club its servants or agents to participate in the use of, or the facilities afforded by, a totalisator, being a totalisator to which section 17B applies;

”.

Section 32A amended

63. Section 32A of the principal Act is amended —

(a) in subsection (1), by inserting after “licence” the following —

“ , or of an authorisation to possess or operate a totalisator, under this Act ”;

- (b) in subsections (2), (3), (5) and (6), by inserting after “licence”, wherever it occurs, the following —

“ or such an authorisation ”; and

- (c) in subsection (4) —

- (i) by inserting, after “bookmaker” where it first occurs, the following —

“ or of such an authorisation ”;

- (ii) by inserting, after “bookmaker” where it next occurs, the following —

“ or the operation of a totalisator authorised under this Act ”; and

- (iii) by inserting, after “licence” in the second and third place where it occurs, the following —

“ or authorisation ”.

Section 33 amended

64. Section 33 of the principal Act is amended, in subparagraph (xvi) of paragraph (b), by inserting before “the duties” the following —

“ the authorisation of the possession and operation of totalisators by racing clubs and, generally, for ”.

PART 5 — RACECOURSE DEVELOPMENT ACT 1976

Principal Act

65. In this Part the *Racecourse Development Act 1976** is referred to as the principal Act.

[* *Act No. 72 of 1976.*

For subsequent amendments see 1991 Index to Legislation of Western Australia, p. 171.]

Section 3 amended

66. Section 3 of the principal Act is amended by deleting the definition of “**Board**” and substituting, in appropriate alphabetical sequence, the definition following —

“ “**the TAB**” means the body constituted under section 5 of the *Totalisator Agency Board Betting Act 1960*; ”.

Section 9 amended

67. Section 9 of the principal Act is amended by deleting “**officer of the Board**” and substituting the following —

“ officer, employee or agent of the **TAB** ”.

Section 10 amended

68. Section 10 of the principal Act is amended, in subsection (1) (b), by deleting “**the Board**” and substituting the following —

“ **the TAB** ”.

PART 6 — RACING PENALTIES (APPEALS) ACT 1990

Principal Act

69. In this Part the *Racing Penalties (Appeals) Act 1990** is referred to as the principal Act.

[* Act No. 46 of 1990.]

Section 3 amended

70. Section 3 of the principal Act is amended by deleting the definition of “the Board” and substituting the definition following —

“ **“the TAB”** means the body constituted under section 5 of the *Totalisator Agency Board Betting Act 1960*; ”.

Section 24 amended

71. Section 24 of the principal Act is amended, in subsection (3) and in subsection (7), by deleting “the Board”, in each place where it occurs, and substituting the following —

“ the TAB ”.

PART 7 — REPEALS

Certain Acts repealed

72. The Acts respectively cited as —

- (a) the *Totalisator Act 1883*;
- (b) the *Totalisator Act Amendment Act 1899*; and
- (c) the *Totalisator Regulation Act 1911*,

are repealed.

