



# Racing Act 2003

Public Act 2003 No 3  
Date of assent 10 March 2003  
Commencement see section 2

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**The Parliament of New Zealand enacts as follows:**

- 1 Title**  
This Act is the Racing Act 2003.

## **Part 1**

### **Preliminary provisions**

#### **2 Commencement**

This Act comes into force on a date to be appointed by the Governor-General by Order in Council.

#### **3 Purpose**

The purpose of this Act is—

- (a) to provide effective governance arrangements for the racing industry; and
- (b) to facilitate betting on galloping, harness, and greyhound races, and other sporting events; and
- (c) to promote the long-term viability of New Zealand racing.

#### **4 Outline**

- (1) This Act replaces the Racing Act 1971.
- (2) Part 1 provides for the commencement of the Act, states the purpose of the Act, defines certain terms used in the Act, and contains other preliminary provisions.
- (3) Part 2 establishes the New Zealand Racing Board, which replaces the New Zealand Racing Industry Board and the Totalisator Agency Board.
- (4) Part 3 contains provisions relating to the 3 racing codes and the racing clubs that are members of those codes. The racing codes are New Zealand Thoroughbred Racing Incorporated, Harness Racing New Zealand Incorporated, and the New Zealand Greyhound Racing Association (Incorporated).
- (5) Part 4 requires each code to have racing rules, and provides for the racing judicial system and other related matters.
- (6) Part 5 relates to the racing calendar and the issue of licences for race meetings.
- (7) Part 6 provides for rules governing betting and related matters.
- (8) Part 7 repeals the Racing Act 1971, makes consequential amendments, and provides for miscellaneous matters.
- (9) Part 8 contains transitional provisions.

## 5 Interpretation

(1) In this Act, unless the context otherwise requires,—

**betting** includes selections made by, or with the assistance of, computer equipment or by means of a telephone or other electronic facility, or by the use of a telephone betting account or other financial facility, or a combination of those things

**betting licence** means a licence issued by the Board to a racing club that authorises the club to hold betting races on a specified date

**betting race** means a race in respect of which racing betting may occur

**Board** means the New Zealand Racing Board established under section 7

**Board member** means a member of the governing body of the Board

**chairperson**, in relation to a racing code, includes a president of the code and any other person acting in a similar capacity

**chief executive**, except in clauses 29 and 30 of Schedule 1, means the chief executive of the department for the time being responsible for the administration of this Act

**constitution**, in relation to a racing code or racing club, means the rules or other constitutional document of the code or club

**dates committee** means the committee established by the Board under section 42

**equalisator betting** means a form of betting in which a number of persons bet on the outcome of a race or races, and in which the sum of the contributors' bets, except for the deductions that are required to, or may, be made under this Act, is paid to the persons who, as a result of a ballot held after the close of betting and before the start of each race, draw the horses or greyhounds, as the case may be, that subsequently fill dividend-bearing places in that race

**expenses** includes costs and charges

**galloping race** means a horse race in which each competing horse normally moves at a gait commonly known as galloping; and includes a race in which each competing horse has to jump a series of hurdles or fences or other obstacles

**governing body**, in relation to the Board, means the governing body referred to in section 10

**greyhound race** means a competitive pursuit of a lure by 2 or more greyhounds

**harness race** means a horse race in which each competing horse normally moves at a gait commonly known as pacing or trotting

**hunt club** means a club, association, or other body of persons (whether incorporated or not) that is established for the purpose of promoting and conducting the sport of hunting, but that also conducts hunt race meetings, and that is registered with a racing code in accordance with the constitution of that code

**Judicial Control Authority** or **Authority** means the Judicial Control Authority continued by section 37

**Minister** means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

**race** means a galloping race, harness race, or greyhound race

**race meeting** means a meeting held on a day for the purpose of conducting races and for which a betting licence has been granted

**racecourse** means land and premises used for race meetings

**racing betting** means betting (including totalisator racing betting, equalisator betting, and fixed-odds betting) conducted by, or on behalf of, the Board on any race or races run at 1 or more racecourses within or outside New Zealand or both, or on any contingency arising from a sequence of any races, whether the betting takes place on or off a racecourse and within or outside New Zealand

**racing betting rules** means rules relating to racing betting made under section 52

**racing calendar** means a racing calendar determined for a racing year under section 42

**racing club** or **club** means any club, association, or other body of persons (whether incorporated or not) that is established for the purpose of promoting, conducting, and controlling races, and that is registered with a racing code in accordance with the constitution of that code; and includes a hunt club

**racing code** or **code** means each of New Zealand Thoroughbred Racing Incorporated, Harness Racing New Zealand Incorporated, and the New Zealand Greyhound Racing Association (Incorporated)

**racing rules**, in relation to a racing code, means rules made by the code for the purposes of section 29 together with any amendments to those rules made under section 30

**racing year** means a period of 12 months ending on 31 July

**recognised industry organisation** means,—

- (a) in relation to galloping races,—
  - (i) New Zealand Thoroughbred Racing Incorporated; and
  - (ii) the New Zealand Racehorse Owners Federation (Incorporated); and
  - (iii) the New Zealand Thoroughbred Breeders Association (Incorporated); and
  - (iv) the New Zealand Trainers Association; and
  - (v) the New Zealand Jockeys Association; and
  - (vi) every racing club registered with New Zealand Thoroughbred Racing Incorporated;
- (b) in relation to harness races,—
  - (i) Harness Racing New Zealand Incorporated; and
  - (ii) the New Zealand Standardbred Breeders Association (Incorporated); and
  - (iii) the New Zealand Trotting Owners Association (Incorporated); and
  - (iv) the New Zealand Harness Racing Trainers and Drivers Association (Incorporated); and
  - (v) every racing club registered with Harness Racing New Zealand Incorporated;
- (c) in relation to greyhound races,—
  - (i) the New Zealand Greyhound Racing Association (Incorporated); and
  - (ii) every racing club registered with the New Zealand Greyhound Racing Association (Incorporated)

**sporting event** means any lawful organised game, competition, or other event involving human competitors held in or outside New Zealand under rules that are under the control of a national or international sports organisation; and—

- (a) if the event is held in New Zealand, there is a New Zealand national sporting organisation that administers the sport concerned or under whose auspices or control the event is conducted; or
- (b) if the event is held outside New Zealand, there is a New Zealand national sporting organisation that administers the sport concerned in New Zealand or under whose auspices or control the event would be conducted if held in New Zealand

**sports betting** means betting (including totalisator betting and fixed-odds betting) conducted by, or on behalf of, the Board on any sporting event or events, whether held within or outside New Zealand, or on any contingency arising from a sequence of sporting events, whether held within or outside New Zealand or both, and whether the betting takes place at the event or events or not and within or outside New Zealand

**totalisator racing betting** means a form of betting in which bets are made by means of a totalisator on horses or greyhounds competing in 1 or more races, and in which the dividends payable are determined in the manner prescribed by the relevant racing rules.

- (2) A reference in this Act to a named body is a reference to the body in existence with that name immediately before the commencement of this Act, whether or not the body subsequently changes its name, and nothing in this Act prevents the body changing its name.

Compare: 1971 No 155 s 2

## 6 Act binds the Crown

This Act binds the Crown.

## Part 2 New Zealand Racing Board

### 7 Establishment of Board

- (1) The New Zealand Racing Board (the **Board**) is established as a body corporate with perpetual succession.
- (2) The Board has, both within and outside New Zealand,—
  - (a) full capacity to carry on or undertake any business or activity, do any act, or enter into any transaction; and

- (b) for the purposes of paragraph (a), full rights, powers, and privileges.
- (3) Subsection (2) applies subject to this Act, any other Act, and the general law of New Zealand.

Compare: 1971 No 155 s 3

## **8 Objectives of Board**

The objectives of the Board are—

- (a) to promote the racing industry; and
- (b) to facilitate and promote racing betting and sports betting; and
- (c) to maximise its profits for the long-term benefit of New Zealand racing.

## **9 Functions of Board**

(1) The functions of the Board are—

- (a) to develop policies that are conducive to the overall economic development of the racing industry, and the economic well-being of people who, and organisations which, derive their livelihoods from racing;
- (b) to determine the racing calendar each year, and issue betting licences, under Part 5;
- (c) to conduct racing betting and sports betting, and make rules relating to betting, under Part 6;
- (d) to distribute funds obtained from betting to the racing codes in accordance with sections 16 and 17;
- (e) to administer the racing judicial system in accordance with sections 36 to 41 and Schedule 3;
- (f) to develop or implement, or arrange for the development or implementation of, programmes for the purposes of reducing problem gambling and minimising the effects of that gambling;
- (g) to undertake, or arrange for the undertaking of, research, development, and education for the benefit of New Zealand racing;
- (h) to use its resources, including financial, technical, physical, and human resources, for purposes that, in the opinion of the Board, will directly or indirectly benefit New Zealand racing;



- (i) to keep under review all aspects of racing and to advise the Minister of those aspects, either on its own initiative or at the request of the Minister;
  - (j) any other functions that it is given by or under this Act or any other Act.
- (2) In carrying out its functions, the Board must—
- (a) comply with the principles of natural justice; and
  - (b) exhibit a sense of social responsibility by having regard to the interests of the community in which it operates.

Compare: 1971 No 155 ss 12, 62A

### *Governing body*

#### **10 Role of governing body**

- (1) The governing body of the Board (the **governing body**) consists of the members referred to in section 11.
- (2) All decisions relating to the business or affairs of the Board must be made by or under the authority of its governing body in accordance with the most recent statement of intent of the Board presented to the House of Representatives under section 19.
- (3) The governing body has all the powers necessary for managing, and for directing or supervising the management of, the business and affairs of the Board.

#### **11 Membership of governing body**

- (1) The governing body consists of 7 members, acceptable to the Minister, as follows:
  - (a) an independent chairperson appointed by the Minister after consultation with the racing industry; and
  - (b) 1 person appointed by the Minister on the nomination of New Zealand Thoroughbred Racing Incorporated; and
  - (c) 1 person appointed by the Minister on the nomination of Harness Racing New Zealand Incorporated; and
  - (d) 1 person appointed by the Minister on the nomination of the New Zealand Greyhound Racing Association (Incorporated); and
  - (e) 3 persons appointed by the Minister on the advice of the nomination advisory panel referred to in section 12, and following the nomination and consultation process described in that section.

- (2) A person who is a chairperson of a racing code may not be appointed or hold office as a member of the governing body under subsection (1)(b) to (e) unless the person resigns from that position before taking up the appointment, but any other person (including any member of the governing body of a code) may be appointed and hold office as such.
- (3) An appointment under subsection (1) is for a period not exceeding 3 years, but—
  - (a) a member continues to hold office until the member is re-appointed or the member's successor is appointed; and
  - (b) if a vacancy occurs during the period, an appointment may be made by the Minister to fill that vacancy for the remainder of the period.
- (4) The Minister may appoint a person to be a member of the Board under subsection (1) only if the Minister is satisfied that the person is qualified to be a member by virtue of the person's—
  - (a) knowledge of, or experience in, the racing industry; or
  - (b) expertise in business, marketing, or economics.

Compare: 1971 No 155 ss 4, 63

## **12 Nomination advisory panel**

- (1) The nomination advisory panel consists of the following 5 members:
  - (a) the Minister, who will chair the panel; and
  - (b) the independent chairperson of the Board; and
  - (c) the 3 chairpersons of the racing codes.
- (2) The nomination advisory panel must recommend to the Minister the appointment of 3 persons to the governing body under section 11(1)(e).
- (3) The nomination advisory panel must not recommend the appointment of any person unless—
  - (a) the Minister has identified the desired skills and qualifications of nominees and sought the nominations of persons for appointment to the Board;
  - (b) the recognised industry organisations have been given a reasonable period, of not less than 4 weeks, during which to make nominations:

- (c) the Minister has distributed a list to the recognised industry organisations of all those persons who have agreed to be nominated to serve on the Board:
  - (d) the racing codes have consulted their affiliated recognised industry organisations on the list of those persons nominated to serve, and the codes have given those organisations a reasonable opportunity, of not less than 7 days, to comment:
  - (e) the nomination advisory panel has met to consider the nominations, taking into account the outcome of the consultation with the recognised industry organisations and the desired skills and qualifications of nominees.
- (4) For the purposes of subsection (3)(a) and (e), the desired skills and qualifications of nominees include a person's—
- (a) knowledge of, or experience in, the racing industry; and
  - (b) expertise in business, marketing, or economics.
- (5) A meeting of the nomination advisory panel may be held by means of audio, audio and visual, or electronic communication by which all panel members can simultaneously communicate with each other throughout the meeting.
- (6) A person must not be appointed to serve on the Board under section 11(1)(e) without first being considered by the nomination advisory panel.

### *Financial provisions and accountability*

#### **13 Accounts and audit**

- (1) The Board must, as soon as practicable after the end of each racing year,—
- (a) prepare financial statements for that year; and
  - (b) have those financial statements audited by a chartered accountant (within the meaning of section 19 of the Institute of Chartered Accountants of New Zealand Act 1996).
- (2) The financial statements of the Board for a racing year must be prepared in accordance with generally accepted accounting practice and must include—
- (a) a statement of financial position at the balance date; and
  - (b) a statement of financial performance for the year; and
  - (c) a statement of cash flows for the year; and

- (d) a statement setting out the financial performance to be achieved during the year as established at the beginning of the year; and
- (e) a statement of commitments as at the balance date; and
- (f) a statement of contingent liabilities as at the balance date; and
- (g) any other statements that are necessary to fairly reflect the financial operations of the Board for the year and its financial position at the end of the year; and
- (h) a statement of accounting policies; and
- (i) comparative actual figures for the previous racing year in relation to any of the matters set out in paragraphs (a) to (g) that are appropriate; and
- (j) budgeted figures for the year in relation to any of the matters set out in paragraphs (a) to (g) that are appropriate.

Compare: 1971 No 155 s 21

#### **14 Performance and efficiency audit**

- (1) The Board must, at least once every 5 years, arrange for an audit to be conducted in relation to its performance and efficiency.
- (2) Schedule 2 applies to an audit conducted under subsection (1).

Compare: 1971 No 155 s 103C

#### **15 Board may maintain reserves**

- (1) The Board may maintain 1 or more reserves with the name or names, and containing an amount or amounts, that the Board considers appropriate.
- (2) The Board may credit to a reserve any amount that it considers appropriate from any surpluses retained by it under sections 53(2) and 57(2), or any other source whether capital or income.

#### **16 Amounts of distributions to codes**

- (1) The Board must, as soon as practicable following the end of a racing year, determine the amount to be distributed among the racing codes for that year from any surpluses referred to in sections 53(2) and 57(2), or any other source whether capital or income.

- (2) Unless a majority of the racing codes otherwise agrees in writing, the amount referred to in subsection (1) must be not less than the total of the surpluses referred to in sections 53(2) and 57(2) for that racing year less the total amount credited to reserves for that year from those surpluses.
- (3) Unless a majority of the racing codes otherwise agrees in writing, the amount referred to in subsection (1) must be distributed among the racing codes in the same proportions that the Board considers are the proportions to which the codes contributed to the New Zealand turnover of the Board for that racing year.
- (4) In subsection (3), **New Zealand turnover of the Board** means the total gross amount received by the Board from racing betting placed in New Zealand on races run in New Zealand.

#### **17 Distributions to codes**

- (1) The Board may, during or after a racing year, pay to the racing codes amounts representing parts of the amount to be distributed among the codes for that year under section 16.
- (2) As soon as practicable after the amount to be distributed among the racing codes for a racing year under section 16 has been determined, the Board must pay to each code the amount arrived at by deducting from the amount due to the code under section 16(3) the total of the amounts paid to the code for that year under subsection (1).
- (3) Despite subsection (2), the Board may withhold all or any part of the amount to be distributed to a code if it has not yet approved the code's statement of intent and business plan under section 23.
- (4) If, for any racing year, the total of the amounts paid to a racing code under subsection (1) exceeds the amount due to the code under section 16(3), the amount of the difference is a debt due from the code to the Board, and the Board may—
  - (a) require the code to repay the debt; or
  - (b) recover the debt by deducting it from the amounts payable to the code under subsections (1) and (2) for any subsequent racing year.

**18 Board must operate in financially responsible manner**

The Board must operate in a financially responsible manner and, for this purpose, must—

- (a) endeavour to maintain its long-term financial viability; and
- (b) endeavour to cover all its annual costs (including the cost of capital) from its net annual income; and
- (c) endeavour to act as a successful going concern; and
- (d) prudently manage its assets and liabilities.

**19 Board must prepare statement of intent**

- (1) The Board must deliver to the Minister, before the commencement of each racing year, a statement of intent relating to that year and to each of the 2 subsequent racing years.
- (2) The statement of intent must set out, for each racing year to which it relates,—
  - (a) the objectives of the Board;
  - (b) the nature and scope of the activities to be undertaken;
  - (c) the performance targets and other measures by which its performance may be judged in relation to its objectives;
  - (d) a statement of accounting policies.
- (3) Before delivering a statement of intent to the Minister, the Board must consult the recognised industry organisations on the proposed statement.
- (4) The Minister must present the statement of intent to the House of Representatives not later than 6 sitting days after it has been received by the Minister.

Compare: 1971 No 155 ss 22A, 78A

**20 Board must prepare business plan**

- (1) Before the commencement of each racing year, the Board must prepare a business plan.
- (2) The Board must consult with each racing code in respect of its business plan.

Compare: 1971 No 155 ss 14(2), 62B

**21 Annual report**

- (1) The Board must, as soon as practicable after the end of each racing year, deliver to the Minister and each racing code a report of its proceedings and operations during that year.
- (2) The annual report must include—
  - (a) the financial statements of the Board and the audit report on those statements; and
  - (b) information on the development and implementation under section 9(1)(f) of programmes relating to problem gambling.
- (3) The Minister must present the report and statements to the House of Representatives not later than 6 sitting days after they have been received by the Minister.

Compare: 1971 No 155 ss 22, 78

*Miscellaneous***22 Other provisions in Schedule 1 and rules**

- (1) Schedule 1 applies to the Board and its governing body.
- (2) The Board may, by resolution, make, alter, and revoke rules not inconsistent with this Act for regulating its proceedings and providing for any matters that may be reasonably necessary or expedient for carrying out its functions, duties, and powers.
- (3) As soon as practicable after making or altering any rules under subsection (2), the Board must send a copy of the rules or amended rules to the Minister.
- (4) The Regulations (Disallowance) Act 1989 (but not the Acts and Regulations Publication Act 1989) applies to any rules made under subsection (2) as if those rules were regulations within the meaning of the Regulations (Disallowance) Act 1989.
- (5) Rules made under subsection (2) must be notified in the *Gazette*, and come into force on the date specified for the purpose in the rules (which must not be earlier than the date of their notification) or, if no date is specified, on the date of notification.
- (6) The Board must make copies of any rules made under subsection (2) available—
  - (a) for inspection free of charge at each of its offices; and

- (b) for purchase by any person at a reasonable price.

Compare: 1971 No 155 s 9

### **Part 3**

#### **Racing codes and clubs**

#### **23 Racing codes must prepare statement of intent and business plan**

- (1) Each racing code must deliver to the Board, before the commencement of each racing year, a proposed statement of intent and business plan relating to that year and to each of the 2 subsequent racing years.
- (2) The proposed statement of intent must set out, for each racing year to which it relates,—
  - (a) the code's rules, as required by section 6 of the Incorporated Societies Act 1908; and
  - (b) the objectives of the code; and
  - (c) the nature and scope of the activities to be undertaken by the code; and
  - (d) a statement of the code's policy for distributing funds received from the Board to racing clubs registered with the code in accordance with section 25; and
  - (e) the performance targets and other measures by which its performance may be judged in relation to its activities; and
  - (f) a statement of accounting policies.
- (3) On receipt of a racing code's proposed statement of intent and business plan, the Board must, within 1 calendar month, write to the code, either—
  - (a) approving the statement and plan; or
  - (b) setting out the reasons why it has not approved the statement or plan.
- (4) Without limiting the generality of subsection (3), the Board may decline to approve a racing code's proposed statement of intent or business plan if the Board considers that—
  - (a) the code's objectives are inconsistent with its own objectives; or
  - (b) any of the code's rules are—
    - (i) unreasonable; or
    - (ii) undemocratic; or
    - (iii) unfairly discriminatory; or
    - (iv) unfairly prejudicial; or



- (v) contrary to law.
- (5) This section does not prevent—
  - (a) a racing code from submitting a revised statement of intent or business plan after the commencement of a racing year; or
  - (b) the Board from approving the revised statement or plan.
- (6) Subsection (3) applies to a revised statement of intent or business plan with any necessary modifications.

## **24 Restriction on use of certain names**

- (1) No person or association of persons, whether a body corporate or not, may have or use any name calculated to suggest connection with, or endorsement by, the Board or a racing code, or any name containing the words—
  - (a) “New Zealand Racing Board”; or
  - (b) “Totalisator Agency Board” or “TAB”; or
  - (c) “Racing Conference” or “New Zealand Thoroughbred Racing”; or
  - (d) “Trotting Conference” or “Harness Racing New Zealand”; or
  - (e) “New Zealand Greyhound Racing Association”.
- (2) If an Act provides for the registration of any association of persons, the registering authority may refuse registration if, in its opinion, the use of the name by which the association wishes to be registered is prohibited by subsection (1).
- (3) This section applies, with the necessary modifications, to a person carrying on business under any name or style except his or her own.
- (4) Subsection (1)(a) and (b) does not apply to the Board.
- (5) Subsection (1)(c) does not apply to New Zealand Thoroughbred Racing Incorporated.
- (6) Subsection (1)(d) does not apply to Harness Racing New Zealand Incorporated.
- (7) Subsection (1)(e) does not apply to the New Zealand Greyhound Racing Association (Incorporated).

- (8) Nothing in this section prevents a racing club from having or using a name containing the word or words “racing”, “thoroughbred racing”, “harness racing”, “trotting”, or “greyhound racing” in any form except those specified in subsection (1).

Compare: 1971 No 155 s 29

## **25 Distribution to clubs of funds received from Board**

- (1) Each racing code is responsible for distributing among the racing clubs registered with the code the amounts received by it from the Board under section 17.
- (2) Each racing code must decide how much of any amount referred to in subsection (1) must be distributed among the racing clubs registered with it and the apportionment of that amount among those clubs.
- (3) The Board may, on the direction of a racing code, pay to a racing club the whole or part of an amount payable by the Board to the code under section 17, and any amount paid must be regarded as having been paid by the Board to the code under section 17 and by the code to the club in accordance with subsections (1) and (2).

## **26 No pecuniary interest in club property**

A member of a racing club must not have any pecuniary interest, in his or her capacity as a member, in the property of the club.

Compare: 1971 No 155 s 34(1)

## **27 Dissolution of club**

- (1) On the dissolution of a racing club, the assets of the club remaining after all legal claims on the club have been satisfied must be disposed of for racing, public, charitable, or other purposes in the manner that the club, with the approval of the racing code with which it is registered, determines.
- (2) The purposes for which the assets must be disposed of must be published by the racing code by notice in the *Gazette*.
- (3) If there is a dispute over the disposition of assets involving a racing club that is an incorporated society or a charitable trust, the dispute must be determined in accordance with section 27

of the Incorporated Societies Act 1908 or section 27 of the Charitable Trusts Act 1957, as the case may be.

- (4) For the purposes of subsection (3), a racing club that is neither an incorporated society nor a charitable trust must be treated as if it were an incorporated society.
- (5) If 2 or more racing clubs propose to combine to form 1 club, the assets of any club that proposes to dissolve as a result of that combination may, with the approval of the racing code with which it is registered, be transferred (whether before or after dissolution) to the club with which it proposes to combine.

Compare: 1971 No 155 s 34

### *Financial statements*

#### **28 Financial statements must be sent to Board**

- (1) As soon as practicable after the end of a racing year, every racing code and racing club must send to the Board a copy of its audited financial statements for that year.
- (2) All financial statements sent to the Board under subsection (1) must be in a form, and based on accounting principles, determined by the Board by written notice to the racing codes.

Compare: 1971 No 155 s 46

## **Part 4**

### **Racing rules and judicial system**

#### **29 Racing rules**

- (1) Every racing code must make, and maintain in force, rules regulating the conduct of racing by that code.
- (2) Without limiting subsection (1), any racing rules of a racing code may provide for—
  - (a) the appointment, functions, and duties of stipendiary stewards and racecourse inspectors; and
  - (b) the licensing of trainers, jockeys, drivers, and apprentices, and related matters; and
  - (c) the registration of horses, greyhounds, owners, partnerships, syndicates, and colours; and
  - (d) the conduct and control of race meetings, including safety requirements; and

- (e) prize money and other stakes, programmes, entries, withdrawals, weights, penalties, handicapping, allowances, weighing, starting, and running; and
  - (f) punishments for breaches of the rules; and
  - (g) determinations and appeals; and
  - (h) disqualifications and suspensions; and
  - (i) any other matters relating to the conduct of races and racing that the racing code thinks fit.
- (3) As soon as practicable after the date of commencement of this Act, each racing code must send to the Board a copy of its racing rules that were in force immediately before that date, and those rules must be regarded as having been made for the purposes of subsection (1).

Compare: 1971 No 155 ss 30(1), 31(1)

### **30 Amendment of racing rules**

- (1) A racing code must, before amending its racing rules, receive written approval from the Board for the proposed amendment.
- (2) A racing code to which sections 37 to 41 and Schedule 3 apply must also consult with the Judicial Control Authority before amending its racing rules.
- (3) As soon as practicable after amending its racing rules, a racing code must send a copy of the amended rules to the Board and, in the case of a racing code to which sections 37 to 41 and Schedule 3 apply, to the Judicial Control Authority.

Compare: 1971 No 155 ss 30(2), 31(2)

### **31 Racing rules must not conflict with any Act or general law**

- (1) Any provision of any racing rules that is in conflict with any provision of this Act, any other Act, or the general law of New Zealand is invalid.
- (2) Despite subsection (1), any racing rules may provide for the appointment of inspectors, in addition to those appointed under section 47.

Compare: 1971 No 155 ss 30(2), 31(3)

**32 Review and availability of racing rules**

- (1) As soon as practicable after making or altering any rules under section 29 or section 34, each racing code must send a copy of the rules or the amended rules to the Minister.
- (2) The Regulations (Disallowance) Act 1989 (but not the Acts and Regulations Publication Act 1989) applies to rules made under section 29 or section 34 as if those rules were regulations within the meaning of the Regulations (Disallowance) Act 1989.
- (3) Rules made under section 29 must be notified in the *Gazette*, and come into force on the date specified for the purpose in the rules (which must not be earlier than the date of their notification) or, if no date is specified, on the date of notification.
- (4) Each racing code must make copies of its racing rules available—
  - (a) for inspection free of charge at each of its offices; and
  - (b) for purchase by any person at a reasonable price.

**33 Compliance with racing rules**

Every racing club must, when holding a race or race meeting, comply with the relevant racing rules.

**34 Rules controlling or prohibiting admission to racecourses**

- (1) This section applies to any racecourse on the day during which racing is being held on that racecourse, whether or not it is, or forms part of, a reserve or other place for which there exists a right of public use or entry.
- (2) Subject to any enactment and the general law of New Zealand, racing rules may include separate rules controlling or prohibiting the admission of persons to any racecourse used by racing clubs registered with the racing code that made the rules.
- (3) Rules made under this section do not come into force until they have been approved by the Minister and published in the *Gazette*.
- (4) The rules may exclude any specified class or classes of person from entering a racecourse, either absolutely or subject to any special conditions, that may be set out in the rules.

- (5) However, subsection (4) applies only to the extent that it is reasonably necessary for the purpose of maintaining public confidence in—
- (a) the conduct of horse racing; and
  - (b) the integrity of race betting.

### **35 Consequences of breaching rule made under section 34**

- (1) Every person who commits a breach of any rule made under section 34 may be removed from the racecourse by any member, officer, agent, or employee of the racing club or of the racing code with which the racing club is registered, or by any member of the police.
- (2) Every person who commits a breach of any rule made under section 34 also commits an offence.
- (3) Every person who commits an offence under subsection (2) is liable on summary conviction to a fine not exceeding \$1,000.

Compare: 1971 No 155 s 101

### *Racing judicial system*

### **36 Application of sections 37 to 41 and Schedule 3**

Sections 37 to 41 and Schedule 3 apply to—

- (a) New Zealand Thoroughbred Racing Incorporated and Harness Racing New Zealand Incorporated, and the racing governed by those codes, on and from the date of commencement of this Act;
- (b) the New Zealand Greyhound Racing Association (Incorporated), and the racing governed by that code, on and from a date specified for the purposes of this paragraph by the Governor-General by Order in Council.

### **37 Judicial Control Authority**

- (1) The Judicial Control Authority established under the Racing Act 1971 is continued.
- (2) The functions of the Authority are as follows:
  - (a) to initiate, develop, and recommend to the Board and the recognised industry organisations those measures that will, in its opinion, be conducive to the efficient judicial control of racing in New Zealand:

- (b) to select and appoint, by any procedures and inquiries that it thinks fit, panels of suitable persons established under clauses 15 and 18 of Schedule 3 from which members of a judicial committee or members of an appeals tribunal may be appointed:
  - (c) to appoint the members of judicial committees under section 39:
  - (d) to appoint the members of appeals tribunals under section 40:
  - (e) to recommend to a racing code to which this section applies any changes to the racing rules of the code that it considers desirable in relation to matters of a judicial nature:
  - (f) to exercise and perform other functions, powers, and duties that are conferred or imposed on the Authority by or under this Act or any other enactment or by any racing rules.
- (3) The Authority has and may exercise all the powers that may be reasonably necessary for the purposes of subsection (2).

Compare: 1971 No 155 ss 99U, 99V, 99ZB, 99ZF

### **38 Membership of Judicial Control Authority**

- (1) The Authority consists of the following members:
- (a) a chairperson, being a person who is or has been a barrister and solicitor of the High Court of not less than 7 years' practice, appointed by the unanimous vote of the chairpersons of the racing codes to which this section applies and the Board; and
  - (b) for each racing code to which this section applies, 2 members appointed jointly by the chairperson of the Authority and the chairperson of the code.
- (2) If the chairpersons referred to in subsection (1)(b) fail to agree upon the appointment of a member of the Authority, the chairperson of the Board must make the appointment.
- (3) A person must not hold office as a member of the Authority under subsection (1) if he or she is a member of the governing body of a racing code or a member of the Board.
- (4) In appointing any person under subsection (1), the appointers must have regard to the person's knowledge, experience, and

expertise relevant to the functions and powers of the Authority.

Compare: 1971 No 155 s 99W

### **39 Judicial committees**

- (1) The Authority must appoint, in accordance with clauses 15 and 16 of Schedule 3, members of judicial committees to exercise and carry out the powers and functions of those committees, whether in relation to matters that arise on a particular day of racing or in relation to other matters.
- (2) The functions of every judicial committee are—
  - (a) to hear, adjudicate on, and determine any matter that is brought before it in accordance with the racing rules of a code to which this section applies; and
  - (b) to exercise and perform the powers, duties, and functions, including the power to impose penalties and award costs, that are conferred or imposed on judicial committees by or under the racing rules of a code to which this section applies.

Compare: 1971 No 155 ss 99ZC, 99ZI(1)

### **40 Appeals tribunals**

- (1) The Authority must appoint, in accordance with clauses 18 and 19 of Schedule 3, members of appeals tribunals to exercise the functions and powers of those tribunals for any appeal.
- (2) The function of every appeals tribunal is to hear and adjudicate on any appeal made to it under clause 20 of Schedule 3.

Compare: 1971 No 155 ss 99ZE, 99ZI(2)

### **41 Further provisions in schedule**

Schedule 3 applies to the Judicial Control Authority, judicial committees, and appeals tribunals.

## **Part 5 Racing calendar and licences**

### *Racing calendar*

#### **42 Board committee to determine and allocate racing dates**

- (1) The Board must establish and maintain a committee (the **dates committee**).



- (2) The dates committee must, before the end of each racing year, determine—
- (a) all of the dates in the subsequent racing year on which betting races will occur; and
  - (b) the allocation of those dates among racing clubs; and
  - (c) any conditions of allocation.
- (3) Before carrying out its functions under subsection (2), the dates committee must consult with each of the recognised industry organisations on the proposed dates, allocation, and conditions.

Compare: 1971 No 155 s 37

#### **43 Change of racing dates and allocation**

- (1) The dates committee may, at any time before or during a racing year, add to, alter, or revoke a date, allocation, or condition determined under section 42.
- (2) Before making a change under subsection (1), the dates committee must consult with each of the racing codes and clubs affected by the change.

Compare: 1971 No 155 s 37A

#### **44 No racing on certain days**

A betting licence must not be issued for races on Easter Sunday, Christmas Day, Good Friday, or before 1 pm on Anzac Day.

Compare: 1971 No 155 s 35

### *Betting licences*

#### **45 Issue of betting licences**

- (1) As soon as practicable after the dates committee has determined the dates, allocation, and conditions for a racing year under section 42, the Board must issue betting licences to the racing clubs to whom dates have been allocated.
- (2) Each betting licence must state—
- (a) the name of the racing club; and
  - (b) the name of the racecourse at which the betting races are to take place; and
  - (c) the date on which the betting races may be held; and
  - (d) any other terms and conditions that the Board considers appropriate.

- (3) Two or more betting licences to be issued to the same racing club may be combined in 1 document.

Compare: 1971 No 155 s 37B

#### **46 Alteration or revocation of betting licence**

- (1) If the dates committee adds to, alters, or revokes a date, allocation, or condition under section 43, the Board must add to, alter, or revoke accordingly any betting licence that has been issued for that date, allocation, or condition.
- (2) The Board must give written notice of an addition, alteration, or revocation of a betting licence under this section to each racing code and club affected by the change.

Compare: 1971 No 155 s 37B

### *Inspectors*

#### **47 Chief executive may appoint inspectors**

- (1) The chief executive may appoint, on the terms and conditions that he or she thinks fit, persons (referred to as **government inspectors** in subsection (2) and sections 48 and 49) to inspect racecourses and premises of the Board for the purpose of ascertaining whether betting licences and betting rules are being complied with.
- (2) The production by a government inspector of a written authority purporting to have been issued under this section is, in the absence of proof to the contrary, sufficient evidence that it has been issued.

Compare: 1971 No 155 ss 58, 59

#### **48 Powers of inspector**

- (1) Every government inspector has the right to enter, at all reasonable times and without charge, any racecourse or premises of the Board.
- (2) A government inspector may,—
- (a) demand from any officer or employee of a racing club or the Board, any information that he or she considers necessary for the purposes of an inspection:
  - (b) at any reasonable time, examine any books, accounts, records, or other documents, or any machine or equipment, used for the purposes of racing betting or sports betting.

- (3) An officer or employee of a racing club or the Board who is required under subsection (2)(a) to provide information must provide that information within 28 days.
- (4) Every government inspector exercising any power under this section must produce his or her authority to act as a government inspector immediately upon request by any person to do so.
- (5) Nothing in this section limits or affects the privilege against self-incrimination.

Compare: 1971 No 155 s 60

#### **49 Obstructing inspector**

- (1) Every person commits an offence who—
  - (a) wilfully hinders or attempts to hinder a government inspector entering, in the execution of his or her duty, any racecourse or premises of the Board; or
  - (b) wilfully refuses, except on the grounds of self-incrimination, to comply with the requirement to provide information that a government inspector has lawfully demanded from him or her under section 48(2)(a); or
  - (c) otherwise wilfully hinders or attempts to hinder a government inspector in the execution of any power or duty.
- (2) Every person who commits an offence against subsection (1) is liable on summary conviction to a fine not exceeding \$1,000.

Compare: 1971 No 155 s 61

## **Part 6 Betting**

### **50 Board may conduct betting**

The Board may conduct, either by itself or by means of racing clubs or other agents appointed by the Board for this purpose,—

- (a) racing betting in accordance with rules made under section 52; and
- (b) except as provided in section 55, sports betting in accordance with rules made under section 54; and

- (c) combinations of the betting referred to in paragraphs (a) and (b).

Compare: 1971 No 155, ss 99B, 99K

## **51 Racing clubs may conduct equalisator betting**

- (1) A racing club that has a betting licence may conduct equalisator betting on races held by it on the date to which the licence relates and on the terms and conditions set out in the licence.
- (2) A racing club may deduct from the bets made by way of equalisator betting, after first making any refunds of bets, an amount not exceeding 15% as commission for the club.
- (3) Except as provided in section 60(2) and (3), a racing club must declare and pay out as dividends all money received by way of equalisator betting, after deducting all refunds of bets and the commission authorised by subsection (2).
- (4) Every racing club, or member, officer, agent, or employee of a racing club commits an offence who knowingly makes, authorises, or permits any payment from money received by way of equalisator betting except in accordance with subsections (2) or (3).
- (5) Every person who commits an offence against subsection (4) is liable on summary conviction,—
- (a) in the case of a racing club, to a fine not exceeding \$3,000;
- (b) in the case of a member, officer, agent, or employee of a racing club, to a fine not exceeding \$1,500.

Compare: 1971 No 155 ss 48, 52, 53

### *Racing betting*

## **52 Board may make rules relating to racing betting**

- (1) The Board may, by notice in the *Gazette*, make, alter, and revoke rules providing for the establishment of a system or systems of racing betting, and providing for any matter relating to the conduct and operation of racing betting by the Board.
- (2) Without limiting subsection (1), rules made by the Board under this section—
- (a) may state the kinds of betting that may be undertaken; and

- (b) may state the circumstances in which—
    - (i) a bet may be refunded, and when it may be retained by the Board; or
    - (ii) any fixed-odds bets may be laid off on other betting systems by the Board for the purpose of limiting the Board's exposure on any particular race or races; or
    - (iii) the Board may cancel any bet; and
  - (c) must state the amounts described in section 58(1).
- (3) Rules made by the Board under this section must provide that, if there is racing betting on a race, the betting must close before the race starts.

Compare: 1971 No 155 ss 39, 41, 99A

### **53 Application of revenue from racing betting**

- (1) The Board must apply the amounts received by it for racing betting, including the net return from bets laid off under any rule in force under section 52(2)(b)(ii), for a racing year in payment of—
- (a) refunds of bets and winning dividends for that year, including payments to dividend prize pools that will be carried forward and paid out as winning dividends at a future date; and
  - (b) goods and services tax; and
  - (c) totalisator duty as prescribed by the Gaming Duties Act 1971; and
  - (d) all costs, charges, and expenses incurred by the Board in the exercise and performance of its functions, duties, and powers under this Act for that year (less any costs, charges, and expenses incurred by it under section 57).
- (2) The surplus, if any, of the amounts received by it for racing betting that remains after making the payments referred to in subsection (1) must be applied by the Board in accordance with sections 15 to 17.

Compare: 1971 No 155 ss 99E, 99O

### *Sports betting*

### **54 Board may make rules relating to sports betting**

- (1) The Board may, by notice in the *Gazette*, make, alter, and revoke rules providing for the establishment of a system or

systems of sports betting, and providing for any matter relating to the conduct and operation of sports betting by the Board.

- (2) Without limiting subsection (1), rules made under this section—
- (a) may state the kinds of betting that may be undertaken; and
  - (b) may state the circumstances in which—
    - (i) a bet may be refunded, and when it may be retained by the Board; or
    - (ii) any fixed-odds bets may be laid off on other betting systems by the Board for the purpose of limiting the Board's exposure on any particular event or events; or
    - (iii) the Board may cancel any bet; and
  - (c) must state the amounts described in section 58(2).

Compare: 1971 No 155 s 99J

## **55 Agreements with national sporting organisations**

- (1) The Board may not conduct sports betting on any sporting event or events without the written agreement of the appropriate New Zealand national sporting organisation.
- (2) Every agreement entered into under subsection (1) must be on the terms and conditions that are agreed between the Board and the New Zealand national sporting organisation concerned, including payment to the sporting organisation, under section 57(1)(d), of revenue derived from sports betting on the event or events to which the agreement relates.
- (3) In this section, **New Zealand national sporting organisation** means an organisation that meets the criteria laid down by Sport and Recreation New Zealand for receiving financial support from that agency, whether or not the organisation is actually receiving the support.

Compare: 1971 No 155 s 99L

## **56 Use of facilities**

- (1) For the purposes of operating a sports betting system, the Board may—
- (a) use any offices or agencies established, or equipment used, for the operation of racing betting; and

- (b) establish any new offices or agencies or outlets that it thinks fit.
- (2) Subsection (1) does not limit section 7(2).

Compare: 1971 No 155 s 99M

### **57 Application of revenue from sports betting**

- (1) The Board must apply the amounts received by it for sports betting, including the net return from bets laid off under section 54(2)(b)(ii), for a racing year in payment of—
- (a) refunds of bets and winning dividends for that year, including payments to dividend prize pools that will be carried forward and paid out as winning dividends at a future date; and
  - (b) goods and services tax; and
  - (c) totalisator duty as prescribed by the Gaming Duties Act 1971; and
  - (d) the amounts agreed to be paid to New Zealand national sporting organisations under agreements entered into under section 55, being—
    - (i) not less than 5% of totalisator sports betting turnover; and
    - (ii) not less than 1% of fixed-odds sports betting turnover and 5% of gross profit (being gross revenue minus dividends paid, but not less than zero) from fixed-odds sports betting; and
  - (e) all costs, charges, and expenses incurred by the Board in the exercise and performance of its functions, duties, and powers during that year in relation to sports betting.
- (2) The surplus, if any, of the amounts received by it for sports betting that remains after making the payments referred to in subsection (1) must be applied by the Board in accordance with sections 15 to 17.

Compare: 1971 No 155 ss 99N, 99O

### *Miscellaneous*

### **58 Deductions for totalisator betting**

- (1) For the purposes of determining winning dividends for totalisator racing betting, rules made under section 52 must state, by way of a percentage of the amount bet, the total of the amounts referred to in section 53 for each form of betting.

- (2) For the purposes of determining winning dividends for totalisator sports betting, rules made under section 54 must state, by way of a percentage of the amount bet, the total of the amounts referred to in section 57 for each form of betting.
- (3) Before the Board determines for the first time or increases any of the percentages required to be stated in the rules by subsection (1), the Board must give reasonable notice of the proposed percentages to every recognised industry organisation.
- (4) Before the Board determines for the first time or increases any of the percentages required to be stated in the rules by subsection (2), the Board must give reasonable notice of the proposed percentages to every recognised industry organisation and the relevant New Zealand national sporting organisations.
- (5) If the Board decides to decrease any of the percentages required to be stated in the rules by subsections (1) and (2), it is not necessary for the Board to amend any rule to reflect the decrease if the decrease is—
  - (a) only temporary; and
  - (b) for the purpose of a particular promotion.

## **59 Review and availability of betting rules**

- (1) As soon as practicable after making or altering any rules under section 52 or section 54, the Board must send a copy of the rules or amended rules to the Minister.
- (2) The Regulations (Disallowance) Act 1989 (but not the Acts and Regulations Publication Act 1989) applies to rules made under section 52 or section 54 as if those rules were regulations within the meaning of the Regulations (Disallowance) Act 1989.
- (3) Rules made under section 52 or section 54 must be notified in the *Gazette*, and come into force on the date specified for the purpose in the rules (which must not be earlier than the date of their notification) or, if no date is specified, on the date of notification.
- (4) The Board must make copies of any rules made under section 52 or section 54 available—
  - (a) for inspection free of charge at each of its offices; and
  - (b) for purchase by any person at a reasonable price.



**60 Amounts of dividends**

- (1) Except in any circumstances that the Board may specify by notice in the *Gazette*, the Board must not pay out by way of dividend an amount less than the amount invested for any bet on which a dividend is payable.
- (2) It is not necessary for the Board, or a racing club conducting equalisator betting, to pay out as part of a dividend a fraction of 10 cents, unless the fraction amounts to or exceeds 5 cents, in which case 5 cents must be paid.
- (3) All amounts not payable as part of a dividend under subsection (2) may be retained by the Board or the racing club, and must be regarded for all purposes as part of the Board's or the club's funds.

Compare: 1971 No 155 ss 44A, 45, 54

**61 Use of betting systems for gaming purposes, etc**

- (1) The Board may operate a totalisator, or any other betting system for the time being authorised under this Act, for the purpose of, or in conjunction with,—
  - (a) a game of chance conducted by a society holding a licence under section 8 of the Gaming and Lotteries Act 1977; or
  - (b) a prize competition conducted by a society holding a licence under section 26 of that Act; or
  - (c) a lottery conducted by a society holding a licence under section 35 of that Act.
- (2) Every operation of a totalisator or other betting system under subsection (1) is subject to all the provisions of the Gaming and Lotteries Act 1977, and to all the conditions of the licence, applying to the game of chance, prize competition, or lottery for which the operation is being carried out.
- (3) Despite the Gaming and Lotteries Act 1977, the Board may pay its employees for operating, or assisting in the operation of, a totalisator or other betting system under subsection (1), but any payment, or any part of a payment, may not be charged to, or be recoverable from, the society on whose behalf the operation is carried out.

- (4) The Board must not impose a charge on a society or accept payment of any kind from a society for the operation or use of the totalisator or any other betting system under this section.

Compare: 1971 No 155 ss 99S, 99T

## **62 Amalgamation with overseas betting systems**

The Board is authorised to amalgamate the amount available for an event or events for which racing or sports betting is authorised under this Act with amounts available from overseas betting systems to form a combined dividend pool.

Compare: 1971 No 155 s 102A

## **63 Restrictions on betting**

- (1) In this section, **bet** means a bet made with the Board (whether directly or through a racing club or other agent) or a racing club conducting equalisator betting.
- (2) Every member, officer, agent, or employee of a racing club, or of the Board, or of an agent of the Board, commits an offence who—
- (a) knowingly receives or registers or takes into account, or knowingly permits to be received or registered or taken into account, a bet by any person apparently under the age of 18 years, whether the bet is made by that person on his or her own behalf or on behalf of any other person; or
  - (b) knowingly extends credit to any person for the purpose of enabling that person to make a bet.
- (3) Every person commits an offence who,—
- (a) being under the age of 18 years, makes or attempts to make a bet, whether on his or her own behalf or on behalf of another person; or
  - (b) makes or attempts to make a bet on behalf of any person under the age of 18 years.
- (4) If any person appearing to be under the age of 18 years makes or attempts to make a bet, any member of the police or any member, officer, agent, or employee of a racing club, or of the Board, or of an agent of the Board, as the case may be, may demand from that person a driver licence or other equivalent evidence verifying his or her age.

- (5) Every person commits an offence who, being required under subsection (4) to give information regarding his or her age, fails to give that information, or gives or supplies any false information relating to his or her age.
- (6) Every person who commits an offence against this section is liable on summary conviction to,—
- (a) in the case of an offence against subsection (2), a fine not exceeding \$2,000;
  - (b) in the case of an offence against subsection (3), a fine not exceeding \$500;
  - (c) in the case of an offence against subsection (5), a fine not exceeding \$500.

Compare: 1971 No 155 s 100

**64 Betting contracts enforceable**

Betting contracts authorised by or under this Act are enforceable at law.

**65 Bets may be refused**

The Board or any racing club may refuse to accept all or any part of a bet without giving any reason for doing so.

## **Part 7 Miscellaneous**

**66 Board may conduct race meetings**

- (1) The Board may, with the approval of the Minister, promote, conduct, and control a race meeting.
- (2) For the purposes of subsection (1), the Board may be issued with a betting licence under section 45.
- (3) All or any of the functions under subsection (1) may be carried out by a person acting under a delegation under clause 24(1) of Schedule 1.

**67 Application of Official Information Act 1982**

The Board is an organisation within the meaning of section 2(1) of the Official Information Act 1982, and that Act applies accordingly.

**68 Crown not liable for debts**

- (1) The Crown is not liable to contribute towards the payment of any debts or liabilities of the Board, the Authority, a judicial committee, or an appeals tribunal.
- (2) Subsection (1) does not apply to—
  - (a) any sum the Crown is liable to contribute under any Act; or
  - (b) any sum the Crown is liable to contribute under any guarantee or indemnity given under section 59 of the Public Finance Act 1989; or
  - (c) any sum the Crown is liable to pay to a creditor of the Board, the Authority, a judicial committee, or an appeals tribunal by virtue of a good cause of action against the Crown; or
  - (d) any sum the Crown is liable to pay to any creditor of the Reserve Bank of New Zealand.

Compare: 1971 No 155 s 102B

**69 Consequential amendments**

- (1) The Acts specified in Schedule 4 are amended in the manner indicated in that schedule.
- (2) The regulations specified in Schedule 5 are amended in the manner indicated in that schedule.

**70 Repeals and revocation**

- (1) The Racing Act 1971 (1971 No 155) is repealed.
- (2) The enactments listed in Schedule 6 are repealed.
- (3) The Racing (Revocation of Approved Scheme) Notice 1973 (SR 1973/219) is revoked.

## **Part 8**

### **Transitional provisions**

**71 Application of transitional provisions**

This Part applies to the New Zealand Racing Industry Board, the Totalisator Agency Board, and the Board.

**72 Interpretation**

In this Part, unless the context otherwise requires,—

**liabilities** means liabilities, debts, charges, duties, and obligations of every description (whether present or future, actual or

contingent, and whether payable or to be observed or performed in New Zealand or elsewhere)

**NZRIB** means the New Zealand Racing Industry Board established by section 3 of the Racing Act 1971

**property** means property of any kind, whether tangible or intangible, real or personal, corporeal or incorporeal; and includes, without limitation,—

- (a) choses in action and money;
- (b) goodwill;
- (c) rights, interests, and claims of any kind in or to property, whether arising from, accruing under, created or evidenced by, or the subject of, an instrument or otherwise, and whether liquidated or unliquidated, actual, contingent, or prospective

**rights** means all rights, powers, privileges, and immunities, whether actual, contingent, or prospective

**TAB** means the Totalisator Agency Board continued by section 62 of the Racing Act 1971.

### **73 NZRIB and TAB abolished**

NZRIB and TAB are each abolished on the commencement of this Act.

### **74 Vesting of property and liabilities**

- (1) The following vest in the Board on the commencement of this Act:
  - (a) all property and liabilities of NZRIB;
  - (b) all property and liabilities of TAB.
- (2) Subsection (1) has effect whether or not any Act or deed or agreement relating to any property or liability permits the vesting or requires any consent to the vesting.

### **75 Records and registers**

- (1) Neither the Registrar-General of Lands nor any other person charged with the keeping of any records or registers is obliged solely by reason of this Act to change the name of NZRIB or TAB to the New Zealand Racing Board in those records or registers or in any document.
- (2) It is sufficient proof, in the absence of evidence to the contrary, that property or any liability is vested in the Board if a

- person presents to a registrar or any other person an instrument, whether or not comprising an instrument of transfer,—
- (a) executed or purporting to be executed by the Board; and
  - (b) relating to any property or liability held, immediately before the commencement of this Act, by NZRIB or TAB; and
  - (c) containing a recital that the property or liability has vested in the Board by virtue of the provisions of this Act.

## **76 Taxes and duties**

The vesting in the Board under section 74 of all property and liabilities of the NZRIB and TAB—

- (a) does not constitute a supply of goods and services for the purposes of the Goods and Services Tax Act 1985;
- (b) is an amalgamation under the Companies Act 1993 of the Board, NZRIB, and TAB for the purposes of the Financial Reporting Act 1993.

## **77 Certain matters not affected by restructuring**

Nothing effected or authorised by this Act—

- (a) places NZRIB, TAB, or the Board (or a member of the governing body of those entities), or any other person, in breach of, or in default under, any contract, or in breach of trust, or in breach of confidence, or otherwise makes any of them guilty of a civil wrong; or
- (b) gives rise to a cause of action against NZRIB, TAB, or the Board (or a member of the governing body of those entities); or
- (c) gives rise to a right for any person to—
  - (i) terminate or cancel or modify a contract or an agreement; or
  - (ii) enforce or accelerate the performance of an obligation; or
  - (iii) require the performance of an obligation not otherwise arising for performance; or
- (d) places NZRIB, TAB, or the Board (or a member of the governing body of those entities), or any other person, in breach of any enactment or rule of law or contractual provision prohibiting, restricting, or regulating the assignment or transfer or issue of any property or the disclosure of any information; or

- (e) releases any surety, wholly or in part, from all or any obligation; or
- (f) invalidates or discharges any contract or security.

## **78 Final reports and accounts**

The Board must perform the duties of NZRIB and TAB under sections 21, 22, 77, and 78 of the Racing Act 1971 for the racing year or part of the racing year ending on the day before the commencement of this Act.

## **79 Transfer of employees**

- (1) Every person employed by NZRIB or TAB immediately before the date of the commencement of this Act is, on and from that date, an employee of the Board and is employed on the same terms and conditions that applied to that employee immediately before that date.
- (2) For the purposes of every enactment, law, contract, and agreement relating to the employment of a person referred to in subsection (1),—
  - (a) the contract of employment of that employee that applied immediately before the commencement of this Act in respect of that person's employment by NZRIB or TAB must be treated as unbroken; and
  - (b) the employee's period of service with NZRIB or TAB and every other period of service of that employee that was recognised by NZRIB or TAB as continuous service must be treated as a period of service with the Board.
- (3) A person to whom subsection (1) applies is not entitled to any compensation for redundancy by reason only of the person ceasing to be employed by NZRIB or TAB.

## **80 Members not entitled to compensation for loss of office**

No person is entitled to any compensation for loss of office as a member of NZRIB or TAB by reason of the abolition of those entities by this Act.

**81 Continuation of judicial offices**

Each of the persons holding office as a member of the Judicial Control Authority or a judicial committee or an appeals tribunal immediately before the commencement of this Act continues, after that commencement, to hold office on the same terms and conditions as those on which the person held office before that commencement.

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# Schedule 1

## Provisions relating to New Zealand Racing Board

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### *Board members*

#### 1 Duties of Board members

A Board member, when exercising powers or performing duties as a Board member, must act—

- (a) in good faith; and
- (b) with reasonable care, diligence, and skill; and
- (c) with honesty and integrity.

#### 2 Appointment of deputy chairperson

- (1) The Minister may appoint a Board member as the deputy chairperson.
- (2) Every person appointed as deputy chairperson holds that office until that person—
  - (a) dies, or resigns from that office; or
  - (b) is removed from office by the Minister; or
  - (c) ceases to be a member.

### **3 Resignation and removal from office**

- (1) A Board member may resign from office by giving written notice to the Minister.
- (2) The Minister may, by giving written notice to the member, remove the member from office at any time, without compensation, for inability to perform the duties of office, bankruptcy, neglect of duty, or misconduct, proved to the satisfaction of the Minister.
- (3) The Minister may only remove a person under subclause (2) after the Minister has given the person an opportunity to be heard.

### **4 Effect of vacancy in membership**

The functions and powers of the Board or the governing body are not affected by any vacancy in the membership of the governing body.

### **5 Remuneration**

The Board members must be paid, out of the funds of the Board, remuneration by way of fees, allowances, or expenses that is determined by the Minister.

### **6 Liability of members and committee members**

- (1) No Board member or person who is a member of any committee of the governing body is personally liable—
  - (a) for any liability of the Board or the governing body; or
  - (b) for any act done or omitted to be done by the Board or the governing body in good faith in the performance or intended performance of the functions or powers of the Board or governing body.
- (2) Every Board member and every member of any committee of the governing body is indemnified by the Board—
  - (a) for costs and damages for any civil liability arising from any action brought by a third party, provided the member was acting in good faith and in performance or intended performance of the functions or powers of the Board; and
  - (b) for costs arising from any successfully defended criminal action.

## 7 Acts may not be called into question

No person may question the following in any proceedings on the grounds that the occasion for the appointment of the person had not arisen or had ceased:

- (a) an appointment of a chairperson;
- (b) an act done by a Board member while acting as a member;
- (c) an act done by the governing body while any Board member is acting as a member.

### *Disclosure of interest*

## 8 Obligation to disclose interest

- (1) A Board member who (except as a member) has a direct or indirect interest in any of the matters listed in subclause (2) (except a betting transaction) must, as soon as practicable after the Board member knows about the relevant facts, disclose the nature of the interest in accordance with clause 10.
- (2) The matters are—
  - (a) the Board's performance of its functions or exercise of its powers;
  - (b) an arrangement, agreement, or contract made or entered into, or proposed to be made or entered into, by the Board.

## 9 Meaning of interested

A Board member is **interested** in a transaction to which the governing body is a party if, and only if, the Board member—

- (a) is a party to, or will or may derive a material financial benefit from, the transaction; or
- (b) has a material financial interest in another party to the transaction; or
- (c) is a director, officer, or trustee of another party to, or person who will or may derive a material financial benefit from, the transaction; or
- (d) is the parent, child, or spouse of another party to, or person who will or may derive a material financial benefit from, the transaction; or
- (e) is otherwise directly or indirectly materially interested in the transaction.

**10 Disclosure of interest**

- (1) A Board member must, immediately after becoming aware of the fact that he or she is interested in a transaction or proposed transaction with the Board, cause to be entered in the interests register, and disclosed to the governing body,—
- (a) the nature and monetary value of the Board member's interest if the monetary value is able to be quantified; or
  - (b) the nature and extent of the Board member's interest if the monetary value cannot be quantified.
- (2) A general notice entered in the interests register or disclosed to the Board to the effect that a Board member is a shareholder, director, officer, member, or trustee of another named company or other person and is to be regarded as interested in any transaction that may, after the date of the entry or disclosure, be entered into with that company or person is a sufficient disclosure of interest in relation to that transaction.

**11 Consequences of disclosure**

A Board member who discloses his or her interest under clause 10—

- (a) must not vote or take part in any deliberation or decision of the governing body relating to the matter; and
- (b) must be disregarded for the purpose of forming a quorum for that part of a meeting of the governing body during which a deliberation or decision relating to the matter occurs or is made.

**12 Effect of non-compliance**

If a Board member fails to comply with the disclosure requirements in clauses 8 to 10, the validity of a transaction entered into by the Board is not affected by that fact.

*Confidentiality of information***13 Confidentiality of information**

- (1) A Board member must not disclose to any person, or make use of or act on, any information that is available to the Board member only in that capacity.
- (2) Subclause (1) does not apply if a Board member—
- (a) is required or authorised by this Act or any other Act to disclose, use, or act on the information; or

- (b) discloses, uses, or acts on the information for the purposes of the Board or the requirements of the law.

#### **14 When member may rely on certain information and advice**

- (1) A Board member, when exercising powers or performing duties as a Board member, may rely on reports, statements, financial data, and other information prepared or supplied, and on professional or expert advice given, by any of the following persons:
  - (a) a person who that member believes on reasonable grounds to be reliable and competent in relation to the matters concerned; or
  - (b) any other Board member or committee on which that member did not serve in relation to matters within that member's or committee's designated authority.
- (2) Subclause (1) applies to a Board member only if the Board member—
  - (a) acts in good faith; and
  - (b) makes proper inquiry if the need for inquiry is indicated by the circumstances; and
  - (c) has no knowledge that the reliance is unwarranted.

#### *Procedure of governing body*

#### **15 Procedure generally**

Except as otherwise provided in this Act, the governing body may regulate its own procedure.

#### **16 Dates, times, and places of meetings**

- (1) The governing body or the chairperson must appoint the dates, times, and places for meetings of the governing body and give notice of those meetings to each Board member who is not present when the appointment is made.
- (2) The chairperson, or any 2 Board members, may at any time call a special meeting of the governing body by giving at least 7 days' notice (or lesser notice if all Board members agree) of the special meeting, and of the business to be transacted at the meeting, to each board member for the time being in New Zealand.
- (3) Notice of a meeting—

- (a) must be written, and state the date, time, and place of the meeting; and
  - (b) may be given by post, fax, or email; and
  - (c) must be sent to the Board member's last known address in New Zealand.
- (4) No business other than that stated in a notice of special meeting may be transacted at that meeting.

### **17 Methods of holding meetings**

A meeting of the governing body may be held either—

- (a) by a number of the Board members who constitute a quorum being assembled together at the place, date, and time appointed for the meeting; or
- (b) by means of audio, or audio and visual, or electronic communication by which all Board members participating and constituting a quorum may simultaneously communicate with each other throughout the meeting.

### **18 Quorum**

- (1) A quorum for a meeting of the governing body is a majority of the Board members holding office at the time the meeting is held.
- (2) No business may be transacted at a meeting of the governing body if a quorum is not present.

### **19 Who presides at meetings**

- (1) The chairperson must preside at all meetings of the governing body at which the chairperson is present.
- (2) If the chairperson is not present, or if there is no chairperson, the deputy chairperson, if present, must preside.
- (3) The Board members present must appoint 1 of their number to be the chairperson for the meeting if—
  - (a) the chairperson or the deputy chairperson is not present; or
  - (b) there is no chairperson and no deputy chairperson.
- (4) A person appointed under subclause (3) has and may exercise all the powers, duties, and functions of the chairperson for the purposes of the meeting.

**20 Voting at meetings**

All resolutions of the governing body must be decided by a majority of the votes cast.

**21 Resolutions**

- (1) A resolution in writing signed or assented to by letter, fax, or email by all Board members is as valid and effectual as if it had been passed at a meeting of the governing body duly called and constituted.
- (2) The resolution may consist of several documents in like form, each signed or appearing to have been sent by 1 or more Board members.

*Method of contracting***22 Method of contracting**

- (1) A contract or other enforceable obligation may be entered into by the Board as stated in subclauses (2) to (5).
- (2) An obligation that, if entered into by an individual, would be required to be by deed may be entered into on behalf of the Board in writing, signed under the name of the Board by—
  - (a) 2 or more Board members; or
  - (b) 1 or more attorneys appointed by the Board in accordance with clause 23.
- (3) An obligation that, if entered into by an individual, is required to be in writing may be entered into on behalf of the Board in writing by a person acting under the Board's express or implied authority.
- (4) An obligation that, if entered into by an individual, is not required to be in writing may be entered into on behalf of the Board in writing or orally by a person acting under the Board's express or implied authority.
- (5) This clause applies to a contract or other obligation—
  - (a) whether or not that contract or obligation was entered into in New Zealand; and
  - (b) whether or not the law governing the contract or obligation is the law of New Zealand.

**23 Attorneys**

- (1) The Board may, by an instrument in writing executed in accordance with clause 24(1), appoint a person as its attorney either generally or in relation to a specific matter.
- (2) An act of the attorney in accordance with the instrument binds the Board.

*Delegations***24 Ability to delegate**

- (1) Subject to subclause (2), the governing body may, by writing either generally or specifically, delegate any of the functions or powers of the Board to a committee of the governing body or to any person.
- (2) The governing body must not delegate any of the following powers:
  - (a) the power of delegation in subclause (1);
  - (b) the power to grant a power of attorney.

**25 Effect of delegation**

- (1) A person to whom any functions or powers are delegated under clause 24(1) may carry out those functions or exercise those powers in the same manner and with the same effect as if they had been conferred on the person directly by this Act and not by delegation.
- (2) Subclause (1) is subject to any direction given, or condition imposed, by the governing body.

**26 Delegate presumed to act in accordance with delegation**

A person who appears to act under a delegation under clause 24(1) is, in the absence of proof to the contrary, presumed to be acting in accordance with the terms of the delegation.

**27 Other matters relating to delegation**

A delegation under clause 24(1)—

- (a) is revocable at will, but the revocation does not take effect until it is communicated to the delegate; and
- (b) does not prevent the governing body from performing the functions or exercising the power.



*Committees***28 Board committees**

- (1) The governing body may, by writing, appoint a committee to—
  - (a) advise the governing body on any matters relating to the Board's functions or powers that are referred to the committee by the governing body; or
  - (b) exercise any of the Board's functions or powers that are delegated to the committee under clause 24(1).
- (2) The governing body may, by resolution, alter, discharge, continue, or reconstitute a committee appointed under subclause (1).
- (3) Committee members may be Board members or other persons.
- (4) A committee may regulate its own procedure, subject to any direction from the governing body.
- (5) Clauses 7 to 22 apply to the committee.

*Employees***29 Appointment of chief executive**

- (1) The governing body may appoint a chief executive.
- (2) The chief executive must be appointed on the terms and conditions that are determined by the governing body.

**30 Appointment of other employees**

- (1) The chief executive may appoint the employees, including employees on secondment from other organisations, that he or she thinks necessary for the efficient performance of the Board's functions, and may negotiate the terms and conditions of employment of those employees.
- (2) Subject to the terms and conditions of employment, the chief executive may at any time terminate or suspend the employment of any of the Board's employees.

**31 Superannuation or retiring allowances**

For the purpose of providing a superannuation fund or retiring allowances for its employees, the governing body may pay

sums by way of a subsidy or a contribution into any superannuation scheme that is registered under the Superannuation Schemes Act 1989.

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**Schedule 2**  
**Provisions relating to performance and efficiency**  
**audit of Board**

**1 Performance and efficiency audit**

- (1) A performance and efficiency audit must be conducted, at least once every 5 years, in relation to how effectively and efficiently the Board is performing its functions under section 9.
- (2) While the audit must relate to the Board's performance on the particular day on which the audit is conducted and its prospective future performance, the person conducting the audit may have regard to the Board's performance during the 5 years before that day.

Compare: 1971 No 155 s 103C(2), (3)

**2 Terms of reference**

- (1) At least 4 months before the day on which an audit is to be conducted, the Board must consult the Minister regarding the terms of reference for the audit.
- (2) The Minister must provide written notice of his or her views on the proposed terms of reference within 1 month after having been consulted by the Board.
- (3) The terms of reference must be determined by the Board, but before doing so, the Board must—
  - (a) consult with the recognised industry organisations and make any amendments to the terms that it considers appropriate as a result of the consultation; and
  - (b) obtain approval of the terms from the Minister.
- (4) If the Minister is not satisfied with any proposed terms of reference, the Minister may determine those terms by giving written notice to the Board.

Compare: 1971 No 155 s 103C(4)–(9)

**3 Appointment of auditor**

- (1) A performance audit must be conducted by a person (not being a member, former member, or employee of the Board) appointed at least 1 month before the date on which the audit is to be conducted.

- (2) Before appointing a person under subclause (1), the Board must consult with, and obtain the approval of, the Minister in relation to the proposed appointment.
- (3) If the Minister is not satisfied with the proposed appointment under subclause (1), the Minister may appoint a person to conduct the audit.

Compare: 1971 No 155 s 103C(10)–(12)

#### **4 Conduct of audit**

In determining the Board's performance and efficiency, the person appointed to conduct the audit must take into account—

- (a) the extent to which the Board has established objectives for the performance of its functions; and
- (b) the nature of those objectives; and
- (c) the progress the Board is making towards the achievement of those objectives; and
- (d) the extent to which the Board has put in place policies and strategies to use its resources effectively and efficiently for the purpose of achieving those objectives; and
- (e) the nature of those policies and strategies, and the manner in which they were put in place; and
- (f) any other matters determined by the Board in accordance with clause 3(3).

Compare: 1971 No 155 s 103C(13)

#### **5 Report of audit**

A person who conducts an audit must, after conducting it,—

- (a) prepare a written report on the conclusions reached as a result of the audit; and
- (b) provide copies of the report to the Minister, the Board, and the recognised industry organisations.

Compare: 1971 No 155 s 103C(14)

#### **6 Board must pay reasonable costs of audit**

- (1) The Board must pay the reasonable costs of an audit to the person who conducted it.
- (2) The reasonable costs of an audit are,—

- (a) if the Board appointed the person, the remuneration by way of fees and expenses agreed between the Board and the person:
- (b) if the Minister appointed the person, the remuneration by way of fees and expenses agreed between the Minister and the person (after the Minister has consulted the Board).

Compare: 1971 No 155 s 103C(15), (16)

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## Schedule 3

### Provisions relating to racing judicial system

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#### *Judicial Control Authority*

### 1 Term of office

- (1) Except as provided in clause 2, every member of the Authority, including the chairperson, must hold office for a period not exceeding 3 years, and is eligible for reappointment.
- (2) Unless a member sooner vacates office under clause 2, every member of the Authority whose term of office has expired must continue to hold office until—
  - (a) he or she is reappointed; or
  - (b) a successor is appointed; or
  - (c) he or she is informed in writing by the persons responsible for the appointment that he or she is not to be reappointed.

Compare: 1971 No 155 ss 99X, 99Y

### 2 Extraordinary vacancies

- (1) A member of the Authority may, at any time, be removed from office by the persons responsible for the appointment for inability to perform the duties of office, bankruptcy, neglect of

duty, or misconduct proved to the satisfaction of the persons concerned.

- (2) A member of the Authority may, at any time, resign his or her office by giving written notice to that effect to the persons responsible for the appointment.
- (3) If a member dies, resigns, or is removed from office, the vacancy created must be filled in the same manner as the appointment of the member vacating that office.
- (4) Every member appointed under subclause (3) must hold office for the remainder of the term for which his or her predecessor would have held office if the vacancy had not occurred.

Compare: 1971 No 155 s 99Z

### **3 Meetings**

- (1) Meetings of the Authority must be held at the times and places that the Authority or its chairperson appoints, but the Authority must meet at least once in each racing year.
- (2) At any meeting of the Authority, the quorum necessary for the transaction of business is 3 members.
- (3) The chairperson must preside at all meetings of the Authority at which the chairperson is present but, if the chairperson is absent, the members present must appoint 1 of their number to be chairperson of the meeting.
- (4) The person appointed under subclause (3) has and may exercise all the powers and functions of the chairperson for the purposes of that meeting.

### **4 Voting at meetings**

- (1) Every question arising at a meeting of the Authority must be decided by a majority of the valid votes recorded on the question.
- (2) At a meeting of the Authority, the chairperson or other person presiding has a deliberative vote and, in the case of an equality of votes, also has a casting vote.
- (3) A resolution in writing signed or assented to by letter, fax, email, or other method of communication by all members of the Authority has the same effect as a resolution duly passed at a meeting of the Authority.

- (4) Except as provided in this Act, the Authority may regulate its own procedure.

Compare: 1971 No 155 Second Schedule cl 1

## **5 Remuneration and allowances**

There may be paid, out of the funds of the Authority, to the members of the Authority the remuneration by way of fees, salary, or allowances and travelling allowances and expenses that may be approved by the Board after consultation with the racing codes to which this schedule applies.

Compare: 1971 No 155 Second Schedule cl 2

## **6 Employees of Authority**

- (1) The Authority may, with the written consent of the Board, employ those persons that it thinks necessary for the efficient performance and exercise of its functions and powers under this Act.
- (2) Persons employed under subclause (1) must be employed on the terms and conditions of employment and paid the salaries and allowances that the Authority may determine.

Compare: 1971 No 155 Second Schedule cl 3

## **7 Superannuation or retiring allowances**

- (1) For the purpose of providing a superannuation fund or retiring allowances for its employees, the Authority may pay sums by way of a subsidy or a contribution into any superannuation scheme that is registered under the Superannuation Schemes Act 1989.
- (2) A person who, immediately before becoming an employee of the Authority, is a contributor to the Government Superannuation Fund under Part II or Part IIA of the Government Superannuation Fund Act 1956 must be regarded, for the purposes of that Act, as employed in the Government service so long as that person continues to be an employee of the Authority and that Act applies to that person in all respects as if that person's service as an employee of the Authority were Government service.
- (3) Nothing in subclause (2) entitles any person to become a contributor to the Government Superannuation Fund after that person has ceased to be a contributor.



- (4) For the purposes of applying the Government Superannuation Fund Act 1956, in accordance with subclause (2), to an employee of the Authority who is a contributor to the Government Superannuation Fund, the term **controlling authority**, in relation to that employee, means the Authority.

Compare: 1971 No 155 Second Schedule cl 4

## **8 Application of certain Acts to members and employees**

- (1) No person may be regarded as employed in the service of the Crown for the purposes of the State Sector Act 1988 or the Government service for the purposes of the Government Superannuation Fund Act 1956 merely because that person is an employee of the Authority.
- (2) This clause applies subject to clause 7(2).

Compare: 1971 No 155 Second Schedule cl 5

## **9 Funds of Authority**

- (1) The Board must ensure that the Authority receives those sums of money that are required for the effective carrying out and exercise of the functions, powers, and duties of the Authority, the judicial committees, and the appeals tribunals.
- (2) The funds of the Authority consist of—
- (a) all money paid to the Authority by the Board under subclause (1):
  - (b) any money that may be paid to the Authority by a recognised industry organisation:
  - (c) all money lawfully contributed or donated to the Authority or otherwise lawfully payable to it:
  - (d) all money received by the Authority by way of fees, rent, or otherwise for any real or personal property vested in or controlled by the Authority, or for the performance or exercise of any of the functions or powers of the Authority:
  - (e) all money received by the Authority from the sale or other disposal of any of its real or personal property
  - (f) all accumulations of income derived from the money

Compare: 1971 No 155 s 26(2A), Second Schedule cl 6

## **10 Bank accounts**

- (1) The Authority may open at any bank or banks those accounts that are necessary for the exercise of its functions and powers

- (2) All money received by the Authority, or by any member or employee of the Authority for the purposes of the Authority, must, as soon as practicable after it has been received, be paid into a bank account of the Authority.
- (3) The withdrawal or payment of money from those accounts must be authorised in the manner that the Authority thinks fit.
- (4) Any bank account of the Authority must be operated only by cheque or other instrument signed by a member or an officer of the Authority who is authorised by the Authority to do so, and must be countersigned by another member or officer of the Authority who is authorised to do so.

Compare: 1971 No 155 Second Schedule cl 7

## **11 Investment of money**

Without limiting the terms of any trust or endowment, any money held by, or on behalf of, the Authority and that is not immediately required for expenditure may be invested—

- (a) in accordance with the provisions of the Trustee Act 1956 that relate to the investment of trust funds; or
- (b) in any other manner that the Authority, with the prior approval of the Board, may determine.

Compare: 1971 No 155 Second Schedule cl 8

## **12 Borrowing powers**

The Authority may, with the prior written approval of the Board, borrow money by way of overdraft, mortgage, debentures, bonds, or otherwise, and may mortgage or charge any of its real or personal property, whether present or future, in the manner it thinks fit.

Compare: 1971 No 155 Second Schedule cl 9

## **13 Accounts and audit**

- (1) The Authority must keep full and correct accounts of all money received and expended by it.
- (2) At the end of every racing year, the Authority must cause to be prepared full and true statements and accounts of all its income and expenditure in that year, together with a balance sheet as at the last day of that year.

- (3) The statement and balance sheet must be audited by a chartered accountant (within the meaning of the Institute of Chartered Accountants of New Zealand Act 1996).
- (4) No person who is an officer, agent, employee, or member of the Authority may be appointed as an auditor under subclause (3).

Compare: 1971 No 155 Second Schedule cl 10

#### **14 Annual report**

As soon as practicable after 31 July in each year, the Authority must deliver to the Minister, to each of the racing codes, and to the Board a report of its proceedings and operations for the previous racing year, and must attach to the report a copy of its audited accounts.

Compare: 1971 No 155 Second Schedule cl 11

### *Judicial committees*

#### **15 Selection and appointment of panel for judicial committees**

- (1) The Authority must select and appoint a panel of persons from which members of a judicial committee may be appointed.
- (2) Every panel of persons appointed under subclause (1) must be in existence for a period not exceeding 1 year. However, panel members may be reappointed.
- (3) In the appointment to any panel of any person under subclause (1), the Authority must have regard to the person's knowledge, experience, and expertise relevant to the functions and powers of judicial committees.
- (4) Any member of a panel may,—
  - (a) at any time, be removed from office by the chairperson of the Authority for inability to perform the duties of office, bankruptcy, neglect of duty, or misconduct, proved to the satisfaction of the chairperson; or
  - (b) at any time, resign his or her office by written notice to the chairperson.

#### **16 Appointment of members of judicial committees**

- (1) The Authority must appoint members of judicial committees to exercise and carry out the powers and functions of those

committees, whether in relation to matters that arise on a particular day of racing or in relation to other matters.

- (2) The chairperson of the Authority or, if the chairperson is not available, any other member of the Authority may appoint or replace a member of a judicial committee.
- (3) Every judicial committee must hold office for the period reasonably required to exercise its functions and powers for the matters arising on, or in relation to, any day of racing, or in relation to other matters, as the case may be.
- (4) There may be paid, out of the funds of the Authority, to the members of judicial committees the remuneration by way of fees and expenses that may be approved by the Authority.

#### **17 Representation for hearings held on race days**

- (1) No person may be represented by counsel at any hearing held by a judicial committee for any matter that arises on any race day and that is held on that day.
- (2) Subclause (1) does not apply to a hearing of a judicial committee that is not held on the race day on which the subject matter of the hearing arose, or to a hearing held by an appeals tribunal.

#### *Appeals tribunals*

#### **18 Selection and appointment of panel for appeals tribunals**

- (1) The Authority must select and appoint a panel of persons from which members of an appeals tribunal may be appointed.
- (2) Every panel of persons appointed under subclause (1) must be in existence for a period not exceeding 1 year. However panel members may be reappointed.
- (3) In the appointment to a panel of a person under subclause (1), the Authority must have regard to the person's knowledge, experience, and expertise relevant to the functions and powers of appeals tribunals.
- (4) Any member of a panel may,—
  - (a) at any time, be removed from office by the chairperson of the Authority for inability to perform the duties of office, bankruptcy, neglect of duty, or misconduct, proved to the satisfaction of the chairperson; or
  - (b) at any time, resign his or her office by written notice to the chairperson.

**19 Appointment of members of appeals tribunals**

- (1) The Authority must appoint members of appeals tribunals to exercise and carry out the powers and functions of those tribunals in relation to any appeal.
- (2) The chairperson of the Authority or, if the chairperson is not available, any other member of the Authority may appoint or replace a member of an appeals tribunal.
- (3) Every appeals tribunal must hold office for the period reasonably required to exercise its functions and powers in relation to the appeal concerned.
- (4) There may be paid, out of the funds of the Authority, to the members of appeals tribunals the remuneration by way of fees and expenses that may be approved by the Authority.

**20 Right of appeal**

- (1) Any person properly entitled, by or under the relevant racing rules, to appeal to an appeals tribunal may do so.
- (2) Every appeal properly brought under the relevant racing rules must be heard and determined by an appeals tribunal in accordance with those rules.

**21 Appeals against placings and stakes**

- (1) No person is entitled to appeal to any appeals tribunal against any decision made by a judicial committee on the day of a race in respect of placings in that race or stakes payable for those placings.
- (2) Nothing in subclause (1) prevents a judicial committee, at any time after the day of any race, from disqualifying a horse for a race, and making any order the committee considers appropriate as to the alteration of the placings in the race and the stakes payable for those placings,—
  - (a) on a ground relating to a drug, stimulant, or depressant having been administered to the horse; or
  - (b) on the ground that the horse was ineligible to start in the race; or
  - (c) on any other ground on which, under the relevant racing rules, a horse may be disqualified for a race after it has started in the race.
- (3) If a judicial committee decides, after the day of a race, that a horse should be disqualified for the race on any ground

referred to in subclause (2), the owner of the horse may appeal against the decision to an appeals tribunal.

## **22 Costs**

- (1) In any appeal, the appeals tribunal may award costs to or against any party to the appeal.
- (2) If, under this clause, an award of costs is made and any sum remains unpaid, the person in whose favour the award was made may obtain from the Registrar of the appeals tribunal a certificate of the sum awarded.
- (3) When a certificate obtained under subclause (2) is filed with the racing code concerned, it may be regarded as arrears and be placed on the unpaid forfeit list as defined in the code's racing rules.

## **23 Power to secure attendance**

- (1) Every appeals tribunal, of its own motion or on the application of any party to any proceedings before it, has the power to require (by way of summons signed by the chairperson or other member of the appeals tribunal) any person subject to the relevant racing rules to appear before it to answer any question put to that person, and to produce to it any papers, documents, records, or things referred to in the summons.
- (2) Every person who is subject to the relevant racing rules may be punished by the appeals tribunal in accordance with the racing rules if he or she, after being summoned to attend to give evidence before an appeals tribunal or to produce to the appeals tribunal any papers, documents, records, or things, without sufficient cause—
  - (a) fails to attend in accordance with the summons; or
  - (b) refuses to be sworn or to give evidence or, having been sworn, refuses to answer any questions that the person is lawfully required by the appeals tribunal or any member of it to answer concerning the proceedings; or
  - (c) fails to produce any paper, document, records, or thing.
- (3) Nothing in subclauses (1) and (2) limits the powers of stipendiary stewards or racecourse inspectors as provided for in the relevant racing rules.

**24 Power to dismiss frivolous or vexatious appeals**

If an appeal is considered by the appeals tribunal to be frivolous or vexatious, the appeals tribunal may dismiss the appeal without a hearing, and make an order for the payment of costs or otherwise that it considers appropriate.

*Miscellaneous***25 Privileges and immunities**

- (1) Witnesses and counsel appearing before a judicial committee or an appeals tribunal have the same privileges and immunities that they would have in proceedings in a District Court.
  - (2) No member of the Authority or person who is a member of any judicial committee or appeals tribunal is personally liable—
    - (a) for any liability of the Authority, judicial committee, or appeals tribunal; or
    - (b) for any act done or omitted to be done by the Authority, judicial committee, or appeals tribunal in good faith in the performance or intended performance of the functions, duties, or powers of the Authority, judicial committee, or appeals tribunal.
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## Schedule 4

### Enactments amended

#### **Financial Transactions Reporting Act 1996** (1996 No 9)

Repeal paragraph (j) of section 3(1) and substitute:

“(j) the New Zealand Racing Board established by section 7 of the Racing Act 2003:”.

#### **Flags, Emblems, and Names Protection Act 1981** (1981 No 47)

Omit from the Third Schedule the item relating to the Racing Act 1971: section 29 and substitute the following item:

Racing Act 2003: section 24	New Zealand Racing Board, Totalisator Agency Board, TAB, Racing Conference, New Zealand Thoroughbred Racing, Trotting Conference, Harness Racing New Zealand, and New Zealand Greyhound Racing Association
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#### **Gaming and Lotteries Act 1977** (1977 No 84)

Repeal the definition of **equalisator licence** in section 2(1).

Repeal the definition of **Totalisator Agency Board** in section 2(1).

Repeal the definition of **totalisator licence** in section 2(1).

Insert in section 2(1), in its appropriate alphabetical order:

“**Board** means the New Zealand Racing Board established by section 7 of the Racing Act 2003”.

Omit from section 15(2) the words “the Totalisator Agency Board, or with the holder of a totalisator licence or an equalisator licence” and substitute the words “the New Zealand Racing Board or any agent of the Board, or with any racing club that is authorised to conduct equalisator betting by section 51 of the Racing Act 2003”.

Omit from the heading to section 16 the words “**Totalisator Agency Board**” and substitute the words “**New Zealand Racing Board**”.

Omit from section 16(1)(a) the words “the Totalisator Agency Board or any of its agencies, or with the holder of a totalisator licence or an equalisator licence” and substitute the words “New Zealand Racing Board or any of its agents or any racing club referred to in section 15(2)”.

Omit from section 16(1)(b) the words “that Board, or with the holder of such a licence” and substitute the words “the New Zealand Racing Board or any of its agents or any such racing club”.

Omit from section 39(2)(b) the words “the Racing Act 1971” and substitute the words “the Racing Act 2003”.

Omit from section 53(4)(b) the words “the Racing Act 1971” and substitute the words “the Racing Act 2003,”.



**Gaming and Lotteries Act 1977 (1977 No 84)—continued**

Omit from section 64(1)(b) the words “the Racing Act 1971” and substitute the words “the Racing Act 2003”.

Omit from section 131(2) the words “Totalisator Agency Board or the holder of a totalisator licence or an equalisator licence” and substitute the words “New Zealand Racing Board or any of its agents or any racing club referred to in section 15(2)”.

Repeal section 137 and substitute:

**“137 Act does not apply to New Zealand Racing Board, etc**

Except as provided in Part VII, this Act does not apply to the New Zealand Racing Board or any member, employee, or agent of the Board, or any racing club referred to in section 15(2), or any member, employee, or agent of such a club, acting in its or his or her official capacity.”

**Gaming Duties Act 1971 (1971 No 34)**

Repeal the definitions of the terms **betting profits, fixed-odds race betting losses, fixed-odds race betting profits, fixed-odds sports betting losses, fixed-odds sports betting profits, gross investments, race, race meeting, racing club, restricted totalisator club, special investments, sporting event, and totalisator club** in section 3 and substitute, in their appropriate alphabetical order:

“**Board** means the New Zealand Racing Board established by section 7 of the Racing Act 2003

“**fixed-odds racing betting** means betting conducted by the Board or its agents under section 50 of the Racing Act 2003

“**sports betting** has the same meaning as in section 5 of the Racing Act 2003

“**totalisator racing betting** has the same meaning as in section 5 of the Racing Act 2003; but does not include **equalisator betting** within the meaning of section 51 of that Act

“**winning dividend**—

“(a) means the amount paid to a person for placing a winning bet on a race; and

“(b) includes—

“(i) an amount that is not claimed by the person who placed the winning bet; and

**Gaming Duties Act 1971 (1971 No 34)—continued**

“(ii) an amount paid to a person from an accumulated dividend prize pool, but only when that prize pool is paid out.”

Repeal sections 4 to 7 and substitute:

**“4 Totalisator duty**

“(1) A totalisator duty is payable to the Crown at the rate of 20% of betting profits.

“(2) Betting profits for totalisator racing betting is calculated in accordance with the formula:

$$\frac{8}{9} (\text{amounts} - \text{refunds}) - \text{winning dividends} - \text{fractions}$$

where—

amounts is the amounts received by the Board or its agents (including GST) for totalisator racing betting including the net return from bets laid off

refunds is the amount of refunds (including GST)

winning dividends is the amount of all winning dividends

fractions is the amount retained by the Board under section 60(3) of the Racing Act 2003 in respect of totalisator racing betting.

“(3) Betting profits for sports betting and fixed-odds racing betting is the total of all amounts received by the Board or its agents for a sporting or racing event less—

“(a) the total amount of refunds (including GST); and

“(b) the total amount of dividends for the sporting or racing event.

**“5 Board must provide returns and pay duty**

“(1) The Board must, no later than the 20th day of each month,—

“(a) provide to the Commissioner a return in the prescribed form of the totalisator duty payable by the Board for all racing betting and sports betting on events for which results have been declared during the previous month; and

“(b) pay the amount of that duty to the Commissioner.

**Gaming Duties Act 1971** (1971 No 34)—continued

- “(2) For the purposes of subsection (1), if an event is held over 2 or more days, the event must be regarded as having been held in the month in which the last day occurs.
- “(3) Totalisator duty payable by the Board constitutes a debt due and payable to the Crown by the Board.”

**Goods and Services Tax Act 1985** (1985 No 141)

Repeal subsections (8) and (9) of section 5 and substitute:

- “(8) Despite any other provision of this Act, for the purposes of this Act, if any racing betting or sports betting (within the meaning of section 5 of the Racing Act 2003) is conducted by the Board (as defined in section 5 of the Racing Act 2003), the betting must be regarded as a supply of services by the Board.”

Repeal subsections (12), (12A), and (13) of section 10 and substitute:

- “(12) The consideration in money for the supply of services for—
- “(a) racing betting or sports betting is treated as the amount received by the New Zealand Racing Board or its agents, plus the net return of bets laid off by the Board less the sum of all refunds and winning dividends; and
  - “(b) equalisator betting is treated as the amount received by a racing club.
- “(13) In section 12, **equalisator betting**, **New Zealand Racing Board**, **racing club**, **racing betting**, and **sports betting** have the meanings set out in section 5 of the Racing Act 2003.”

**Income Tax Act 1994** (1994 No 164)

Omit from section CB 4(1)(i)(i) the words “Totalisator Agency Board” and substitute the words “New Zealand Racing Board”.

Repeal section CB 4(1)(i)(ii).

Omit from section CB 4(1)(i)(iii) the words “The New Zealand Racing Conference” and substitute the words “New Zealand Thoroughbred Racing”.

Omit from section CB 4(1)(i)(vi) the words “section 2 of the Racing Act 1971” and substitute the words “section 5 of the Racing Act 2003”.

Omit from section CB 9(c) the words “Racing Act 1971” and substitute the words “Racing Act 2003”.

**Income Tax Act 1994** (1994 No 164)—continued

Omit from paragraph (i)(i) of the definition of **excepted financial arrangement** in section EH 14 the words “section 2 of the Racing Act 1971” and substitute the words “section 5 of the Racing Act 2003”.

Omit from paragraph (i)(ii) of the definition of **excepted financial arrangement** in section EH 14 the words “established under Part VB of the Racing Act 1971” and substitute the words “administered under Part 6 of the Racing Act 2003”.

Omit from section EH 24(1)(c)(i) the words “section 2 of the Racing Act 1971” and substitute the words “section 5 of the Racing Act 2003”.

Omit from section EH 24(1)(c)(ii) the words “established under Part VB of the Racing Act 1971” and substitute the words “administered under Part 6 of the Racing Act 2003”.

**Official Information Act 1982** (1982 No 156)

Omit from the First Schedule the words “New Zealand Racing Industry Board” and substitute the words “New Zealand Racing Board”.

Omit from the First Schedule the words “Totalisator Agency Board”.

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**Schedule 5**  
**Consequential amendments to regulations**

**Gaming and Lotteries (Licensed Promoters) Regulations 1978**  
(SR 1978/144)

Omit from paragraph 5 of form 2 of the First Schedule the words “the Racing Act 1971” and substitute the words “the Racing Act 2003”.

Omit from paragraph 6 of form 3 of the First Schedule the words “the Racing Act 1971” and substitute the words “the Racing Act 2003”.

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## Schedule 6

### Enactments repealed

**Finance Act 1977** (1977 No 75)

Section 7.

**Gaming Duties Amendment Act 1976** (1976 No 16)

Sections 3(2) and 5.

**Gaming Duties Amendment Act 1995** (1995 No 93)

Sections 3 and 4(1).

**Gaming Duties Amendment Act 1996** (1996 No 61)

Section 3(1).

**Goods and Services Tax Amendment Act 1987** (1987 No 103)

Section 4.

**Goods and Services Tax Amendment Act (No 2) 1989**

(1989 No 152)

Section 6(3).

**Goods and Services Tax Amendment Act 1995** (1995 No 22)

Section 5(2).

**Goods and Services Tax Amendment Act (No 3) 1995**

(1995 No 80)

Sections 2(1) and 3(1).

**Goods and Services Tax Amendment Act (No 4) 1995**

(1995 No 83)

Sections 2 and 3.

**Income Tax Act 1994 Amendment Act (No 5) 1995**

(1995 No 79)

Section 2(a).

**Seddon Shield Districts Trotting Jackpot Empowering Act 1977 (P)** (1977 No 2)

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**Legislative history**

30 May 2001	Introduction (Bill 135-1)
21 June 2001	First reading and referral to Government Administration Committee
5 December 2001	Reported from Government Administration Committee (Bill 135-2)
8 October 2002	Second reading
4 March 2003	Committee of the whole House (Bill 135-3)
6 March 2003	Third reading
10 March 2003	Royal assent

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This act is administered in the Department of Internal Affairs.

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