

Western Australia

Western Australian Trotting Association Act 1946

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THE TEXT OF THE LEGISLATION FOLLOWS

Western Australia

Western Australian Trotting Association Act 1946

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Western Australian Trotting Association Act 1946

An Act to constitute and incorporate a Western Australian Trotting Association and to declare its objects, functions and powers, and for other purposes incidental thereto.

[Long title amended by No. 35 of 2003 s. 223.]

1. Short title and commencement

This Act may be cited as the *Western Australian Trotting Association Act 1946*, and shall come into operation on a day to be fixed by proclamation¹.

2. Interpretation

In this Act —

“**Association**” means the Western Australian Trotting Association as constituted under this Act;

“**by-laws**” means the by-laws of the Association;

“**Committee**” means the committee of the Association.

[Section 2 amended by No. 73 of 1994 s. 4; No. 35 of 2003 s. 224.]

3. Constitution

- (1) The Western Australian Trotting Association (Incorporated) is hereby constituted a body corporate under the name of the “Western Australian Trotting Association”.
- (2) The Association shall have perpetual succession and a common seal and may sue and be sued in its corporate name and shall, for the purposes and subject to the provisions of this Act, be capable of purchasing, holding, granting, demising, disposing of or otherwise dealing with, real and personal property, and of doing and suffering all such other acts and things as bodies corporate may by law do and suffer.
- (3) Save as in this Act or the by-laws made thereunder is otherwise provided or unless inconsistent therewith, the Association shall have and enjoy all the rights and privileges and be subject to the obligations which are applicable to limited companies registered under the provisions of the *Companies Act 1943*², save that the Association shall not be required to use the word “limited” as any part of its name and shall not be required to publish its name or file with the Registrar the annual return mentioned in sections 112 and 113 of the *Companies Act 1943*².
- (4) Upon the commencement of this Act the Western Australian Trotting Association (Incorporated) as constituted under the *Associations Incorporation Act 1895*³, shall cease to exist and its incorporation under such last-mentioned Act shall be dissolved and its Certificate of Incorporation revoked and the provisions of the *Associations Incorporation Act 1895*³ shall not apply to the Association.

4. Vesting of assets of the Western Australian Trotting Association (Incorporated) in Association

- (1) The assets, funds, securities, effects, choses in action, and property of every description, both real and personal, belonging to or vested in the Western Australian Trotting Association (Incorporated) immediately before the commencement of this

Act shall, upon the commencement of this Act, be and the same are hereby vested in the Association which shall take over and assume liability for all charges, debts, obligations, engagements and liabilities of the Western Australian Trotting Association (Incorporated) as existing immediately before the commencement of this Act.

- (2) All deeds, conveyances, assurances, grants, leases, purchases, sales, mortgages, liens, bonds, covenants, agreements, contracts, securities, notices, declarations of trust and other acts and deeds which before the commencement of this Act shall have been executed, made or entered into by the Western Australian Trotting Association (Incorporated), and which shall be then in force, and all obligations and liabilities which at the time of the commencement of this Act shall have been incurred by the Western Australian Trotting Association (Incorporated) shall be as valid and of as full force and effect in favour of or against the Association as if the same had been executed, made or entered into by the Association instead of by the Western Australian Trotting Association (Incorporated).
- (3) All causes, suits, actions and rights of action which shall have accrued before or shall be in any manner enforceable by or for or against the Western Australian Trotting Association (Incorporated) at the commencement of this Act shall, subject to the provisions of this Act, be and remain as good, valid and effectual for or against the Association as they would or might have been for or against the Western Australian Trotting Association (Incorporated) if this Act had not been passed.
- (4) Where in any other Act reference is made to the Western Australian Trotting Association (Incorporated) such reference shall be deemed to be made to the Association.

5. Members

The persons who were immediately before the commencement of this Act members of the Western Australian Trotting Association (Incorporated) shall become and may remain

members of the Association upon the commencement of this Act, provided such person is not a bookmaker.

[6. *Repealed by No. 35 of 2003 s. 225.*]

7. By-laws

- (1) The Committee may make by-laws prescribing all matters that are necessary or convenient to be prescribed for giving effect to the purposes of this Act.
- (2) Without limiting subsection (1), by-laws may —
 - (a) prescribe the objects, purposes and powers of the Association;
 - (b) regulate the application of the income and property of the Association and the manner in which funds of the Association are to be controlled;
 - (c) regulate the management of the Association;
 - (d) provide for the election of members of the Committee and the constitution, procedure, functions and powers of the Committee;
 - (e) regulate the election or qualifications for admission of members of the Association;
 - (f) regulate the suspension or expulsion of members of the Association;
 - (g) regulate appeals from decisions of the Committee;
 - (h) provide for the entrance fees, subscriptions and other amounts (if any) to be paid by members of the Association;
 - (i) provide for the keeping of a register of members;
 - (j) regulate the procedure at and in relation to general or special meetings of members;
 - (k) provide for the custody and use of the common seal of the Association;

- (l) provide for matters concerned or connected with the property of, or held in trust for, the Association, including admission fees and other charges;
 - (m) provide for the general management of the property of, or held in trust for, the Association, races and race meetings.
- (3) By-laws shall be —
- (a) made by resolution passed by an absolute majority of members of the Committee; and
 - (b) published in any manner that the Committee considers appropriate.
- (4) By-laws are not —
- (a) written laws or subsidiary legislation as defined in the *Interpretation Act 1984*;
 - (b) regulations as defined in the *Interpretation Act 1984* section 42.
- (5) Section 43 (other than subsections (6) and (8)(a)(ii)), 44, 45 and 47 of the *Interpretation Act 1984* apply to by-laws as if they were subsidiary legislation as defined in that Act.
- (6) To the extent that by-laws are inconsistent with any written law or with rules of racing made under the *Racing and Wagering Western Australia Act 2003*, the by-laws are of no effect.

[Section 7 inserted by No. 35 of 2003 s. 226.]

[8. Repealed by No. 35 of 2003 s. 227.]

9. Obstructing of officers

- (1) Any person who wilfully obstructs any officer, servant or agent of the Association in the execution of his duty upon any land vested in the Association or of which the control and management is vested in the Association or upon any building or premises connected therewith shall be liable on summary conviction to a penalty not exceeding \$20.

s. 10

- (2) Any person who wilfully trespasses upon any land vested in the Association or of which the control and management is vested in the Association or upon any building or premises connected therewith or who removes or wilfully injures any building, enclosure, post, tree or shrub upon any such land shall be liable on summary conviction to a penalty not exceeding \$20.
- (3) Any member of the committee, officer or servant of the Association and any person called by him to his assistance may seize and detain any person who shall have committed any offence against the provisions of this Act and whose name and residence shall not be given to such member of the committee, officer or servant upon his requiring the same to be given and give such offender in charge to a police constable.

Such constable shall convey the offender with all convenient despatch before a court of summary jurisdiction without any other authority than this Act and such Court shall proceed with all convenient despatch to the hearing of the charge against the offender.

Notwithstanding the liability of any person to any penalty under the provisions of this Act he shall not be relieved from any other liability to which he would have been subject if this Act had not been passed.

[Section 9 amended by No. 113 of 1965 s. 8; No. 35 of 2003 s. 228; No. 59 of 2004 s. 141; No. 84 of 2004 s. 80.]

10. Exclusion of undesirable persons

- (1) Any person may be refused admission to any lands vested in the Association or of which the Association has the control and management or may be expelled from any such lands if he is a person for the time being under any disqualification by the Association.

- (2) A person may be refused admission to the said lands or may be expelled therefrom if the Committee resolve that there are reasonable grounds for believing that his presence on the said lands would be undesirable in the interests of the public resorting thereto or prejudicial to the proper conduct of racing or of any other sport.
- (3) The preceding provisions of this section shall be construed as supplemental to and not in derogation of or limited by the provisions of this Act relating to by-laws.

11. Accounts to be kept

The Committee shall cause full and accurate accounts to be kept of all sums of money received or expended on account of the Association and of the matters and things for which such sums of money shall have been received or expended.

[12. Repealed by No. 35 of 2003 s. 229.]

13. Books to be balanced and audited

The books of the Association shall in each and every year be balanced up to and inclusive of 31 July in the year preceding and forthwith on the books being so balanced an annual account shall be made up which shall exhibit a true statement of the total receipts and expenditure of the Association during the year immediately preceding 31 July with a statement of the balance of such account and such books and accounts shall be examined and audited by the auditor so to be appointed as aforesaid and the balance and account shall be certified by the President or Honorary Treasurer and by such auditor as aforesaid.

14. Copy of annual account to be transmitted to Minister

A copy of such annual account shall be transmitted by the President free of charge to the Minister on or before 30 September in each year under a penalty of \$10 for not preparing and rendering the said account to be levied by summary process and such account shall be open at all

s. 14

reasonable hours for the inspection of the public on payment of a fee of 10 cents.

[Section 14 amended by No. 113 of 1965 s. 8; No. 35 of 2003 s. 230.]

[15, 16. Repealed by No. 35 of 2003 s. 231.]

[First Schedule repealed by No. 35 of 2003 s. 232.]

[Second Schedule repealed by No. 35 of 2003 s. 233.]

Notes

- ¹ This is a compilation of the *Western Australian Trotting Association Act 1946* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Western Australian Trotting Association Act 1946</i>	55 of 1946	24 Jan 1947	1 Feb 1947 (see s. 1 and <i>Gazette</i> 31 Jan 1947 p. 200)
<i>Western Australian Trotting Association Act Amendment Act 1947</i>	10 of 1947	22 Oct 1947	22 Oct 1947
<i>Western Australian Trotting Association Act Amendment Act 1948</i>	62 of 1948	21 Jan 1949	21 Jan 1949
Untitled by-laws published in <i>Gazette</i> p. 301		13 Feb 1957	13 Feb 1957
Untitled by-laws published in <i>Gazette</i> p. 747		18 Apr 1958	18 Apr 1958
Reprint of the <i>Western Australian Trotting Association Act 1946</i> approved 16 Feb 1959 in Vol. 14 of Reprinted Acts (includes amendments listed above)			
Untitled by-laws published in <i>Gazette</i> p. 2071		8 Jul 1960	8 Jul 1960
Untitled by-laws published in <i>Gazette</i> p. 3402		12 Oct 1962	12 Oct 1962
Untitled by-laws published in <i>Gazette</i> p. 871		21 Feb 1964	21 Feb 1964
Untitled by-laws published in <i>Gazette</i> p. 2545-6		26 Jun 1964	26 Jun 1964
Untitled by-laws published in <i>Gazette</i> p. 3618		23 Oct 1964	23 Oct 1964
<i>Decimal Currency Act 1965</i>	113 of 1965	21 Dec 1965	s. 4-9: 14 Feb 1966 (see s. 2(2)); balance: 21 Dec 1965 (see s. 2(1))
Untitled by-laws published in <i>Gazette</i> p. 3222		24 Nov 1967	24 Nov 1967

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Short title	Number and year	Assent	Commencement
Untitled by-laws published in <i>Gazette</i>	24 Mar 1969		24 Mar 1969
p. 1006			
Untitled by-laws published in <i>Gazette</i>	30 May 1969		30 May 1969
p. 1637			
Untitled by-laws published in <i>Gazette</i>	19 Dec 1969		19 Dec 1969
p. 4189			
Reprint of the Western Australian Trotting Association Act 1946 approved 2 May 1977 (includes amendments listed above)			
Untitled by-laws published in <i>Gazette</i>	7 Oct 1977		7 Oct 1977
p. 3609			
Untitled by-laws published in <i>Gazette</i>	20 Oct 1978		20 Oct 1978
p. 3759-60			
Untitled by-laws published in <i>Gazette</i>	3 Aug 1979		3 Aug 1979
p. 2165			
Untitled by-laws published in <i>Gazette</i>	9 Jan 1981 p. 22		9 Jan 1981
Untitled by-laws published in <i>Gazette</i>	14 May 1982		14 May 1982
p. 1500			
Untitled by-laws published in <i>Gazette</i>	30 Jul 1982		30 Jul 1982
p. 2948			
Untitled by-laws published in <i>Gazette</i>	29 Apr 1983		29 Apr 1983
p. 1291			
Untitled by-laws published in <i>Gazette</i>	31 Oct 1986		31 Oct 1986
p. 4041			
Untitled by-laws published in <i>Gazette</i>	1 May 1987		1 May 1987
p. 1489			
Untitled by-laws published in <i>Gazette</i>	30 Dec 1988		30 Dec 1988
p. 5090			
Untitled by-laws published in <i>Gazette</i>	30 Jun 1989		30 Jun 1989
p. 1899			
Untitled by-laws published in <i>Gazette</i>	29 Sep 1989		29 Sep 1989
p. 3668-9			
Untitled by-laws published in <i>Gazette</i>	29 Jun 1990		29 Jun 1990
p. 3255			

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Short title	Number and year	Assent	Commencement
Untitled by-laws published in <i>Gazette</i> 10 Aug 1990 p. 3910-11			10 Aug 1990
Untitled by-laws published in <i>Gazette</i> 24 Aug 1990 p. 4338			24 Aug 1990
Untitled by-laws published in <i>Gazette</i> 22 Nov 1991 p. 5966			22 Nov 1991
Untitled by-laws published in <i>Gazette</i> 27 Mar 1992 p. 1371-2			27 Mar 1992
Untitled by-laws published in <i>Gazette</i> 5 Jun 1992 p. 2367			5 Jun 1992
Untitled by-laws published in <i>Gazette</i> 22 Jun 1993 p. 3060			22 Jun 1993
Untitled by-laws published in <i>Gazette</i> 3 Aug 1993 p. 4202-4			3 Aug 1993
Untitled by-laws published in <i>Gazette</i> 14 Jun 1994 p. 2495			14 Jun 1994
Untitled by-laws published in <i>Gazette</i> 23 Aug 1994 p. 4395-7			23 Aug 1994
<i>Statutes (Repeals and Minor Amendments) Act 1994 s. 4</i>	73 of 1994	9 Dec 1994	9 Dec 1994 (see s. 2)
Untitled by-laws published in <i>Gazette</i> 12 Jul 1996 p. 3383-4			12 Jul 1996
Untitled by-laws published in <i>Gazette</i> 15 Jul 1997 p. 3687			15 Jul 1997
Untitled by-laws published in <i>Gazette</i> 20 Oct 1998 p. 5789-91			20 Oct 1998
Untitled by-laws published in <i>Gazette</i> 29 Jun 1999 p. 2835-40			29 Jun 1999
Untitled by-laws published in <i>Gazette</i> 3 Sep 1999 p. 4312			3 Sep 1999
Untitled by-laws published in <i>Gazette</i> 16 Nov 1999 p. 5721-2			16 Nov 1999
Untitled by-laws published in <i>Gazette</i> 11 Apr 2000 p. 1842-4			11 Apr 2000

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Short title	Number and year	Assent	Commencement
Untitled by-laws published in <i>Gazette</i>	7 Jul 2000 p. 3685		7 Jul 2000
Untitled by-laws published in <i>Gazette</i>	22 Sep 2000 p. 5433-4		22 Sep 2000
Untitled by-laws published in <i>Gazette</i>	20 Nov 2001 p. 6023		20 Nov 2001
Untitled by-laws published in <i>Gazette</i>	12 Nov 2002 p. 5467		12 Nov 2002
Untitled by-laws published in <i>Gazette</i>	13 May 2003 p. 1669		13 May 2003
<i>Racing and Gambling Legislation Amendment and Repeal Act 2003</i> Pt. 13 ⁴	35 of 2003	26 Jun 2003	1 Aug 2003 (see s. 2 and <i>Gazette</i> 29 Jul 2003 p. 3259)
Untitled by-laws published in <i>Gazette</i>	11 Jul 2003 p. 2740-1		11 Jul 2003
Reprint 3: The Western Australian Trotting Association Act 1946 as at 16 Apr 2004 (includes amendments listed above)			
<i>Courts Legislation Amendment and Repeal Act 2004</i> s. 141	59 of 2004	23 Nov 2004	1 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7128)
<i>Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004</i> s. 80	84 of 2004	16 Dec 2004	2 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7129 (correction in <i>Gazette</i> 7 Jan 2005 p. 53))

² Now known as the *Companies (Co-operative) Act 1943*.

³ Repealed by the *Associations Incorporation Act 1987*.

⁴ The *Racing and Gambling Legislation Amendment and Repeal Act 2003* s. 19 and Pt. 13 Div. 2 read as follows:

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19. Power to amend regulations

- (1) The Governor, on the recommendation of the Minister, may make regulations amending subsidiary legislation made under any Act.
- (2) The Minister may make a recommendation under subsection (1) only if the Minister considers that each amendment proposed to be made by the regulations is necessary or desirable as a consequence of the enactment of the RWWA Act or this Act.

- (3) Nothing in this section prevents subsidiary legislation from being amended in accordance with the Act under which it was made.

Division 2 — Transitional and savings provisions

234. Interpretation

In this Division —

“WATA” means the Western Australian Trotting Association constituted under the WATA Act;

“WATA Act” means the *Western Australian Trotting Association Act 1946*.

235. Country Clubs’ Benefit Fund

- (1) Any funds which immediately before commencement day are held in the Country Clubs’ Benefit Fund under section 15 of the WATA Act are on commencement day to be transferred to an account maintained under section 88 of the RWWA Act and nominated by RWWA.
- (2) Funds transferred under subsection (1) may be expended by RWWA for any purpose the board of RWWA thinks fit.

236. By-laws — continuation and expiry

- (1) Despite section 232, and subject to subsections (2) and (3), any rules of racing and rules of wagering made by RWWA under the RWWA Act, by-laws made under the WATA Act that were in force immediately before commencement day continue in force with such changes as are necessary on and after commencement day as if they were made under section 7 of that Act as amended by this Act.
- (2) Subsection (1) does not continue the operation of any by-law that could not be made under section 7 of the WATA Act as amended by this Act.
- (3) The by-laws continued in force under subsection (1), expire 12 months after the coming into operation of this section, or on a day fixed by order of the Minister published in the *Gazette*, whichever is the earlier day.
- (4) Nothing in this section affects the operation of section 37 of the RWWA Act.

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