

TOTALISATOR AGENCY BOARD BETTING.

9° Elizabeth II., No. L.

No. 50 of 1960.

AN ACT to constitute a Totalisator Agency Board and to Authorise, Regulate and Control Betting off a Race Course on Totalisators through the Board and Betting with the Board and for incidental and other purposes.

[Assented to 28th November, 1960.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *Totalisator Agency Board Betting Act, 1960.* Short title and citation.

2. (1) This Act shall come into operation on a day to be fixed by proclamation. Commencement.

(2) After the passing of this Act and notwithstanding that a day has not been so fixed—

- (a) the Governor may appoint the Board;
- (b) the Board may exercise all or any of the powers conferred upon it by this Act which may be necessary or expedient for the purpose of bringing this Act into operation, as validly as if this Act had been proclaimed to come into operation.

(3) The provisions of subsection (2) of this section are in addition to and not in derogation of those of section eleven or any other provisions of the Interpretation Act, 1918.

Interpre-
tation.

3. In this Act unless the context requires otherwise—

“Association” means the Western Australian Trotting Association constituted under the Western Australian Trotting Association Act, 1946;

“Board” means the body corporate constituted under this Act as the Totalisator Agency Board;

“bookmaker” means any person who (whether on his own account or as employee or agent of another person) carries on the business or vocation of or acts as a bookmaker or turf commission agent, or who gains or endeavours to gain his livelihood wholly or partly by betting or making wagers, but does not include the Board or any of its officers, agents or employees when acting in accordance with this Act for or on behalf of the Board;

“Club” means the body known as The Western Australian Turf Club;

“horse race” includes a trotting race;

“member” means a person occupying any of the offices of the Board, including that of chairman;

“place” means a building, erection, structure, house, office, room, tent, vessel, vehicle, premises, land whether enclosed or otherwise, or part of any of them, and includes any other place or part of a place whether of the same kind as, or a different kind from, places specified in this interpretation;

“public place” means any place, used or available for use by the public, and includes a road, street, lane, footpath, thoroughfare, cul de sac, doorway, convenience, reserve or any part of them, and any other place or part of a place used, or available for use, by the public whether of the same kind as or a different kind from, those specified in this interpretation or the interpretation of the expression, “place”;

“race course” means a race course used for horse races;

“race meeting” means a meeting at which horse races are held;

“racing club” means a body which conducts race meetings;

“totalisator” means the instrument known as “the totalisator” and includes any other machine, instrument or contrivance of a like nature and conducted on the like principles lawfully operated under the provisions of any Act and also includes any totalisator pool scheme conducted on any horse race by the Board under this Act for enabling any number of persons to make bets with one another on like principles;

“totalisator agency” means any totalisator agency established and operated in accordance with this Act, and includes any premises on which bets may be made on a

horse race on a totalisator through or with the Board or bets made with the Board under this Act;

“totalisator ticket” includes any ticket, card, token or thing—

- (a) entitling, or purporting to entitle, any person to any interest in any division or distribution of any money by means of or in connection with or as the result of the operations of a totalisator; or
- (b) issued by the Board acknowledging that a bet has been made through or with the Board.

Application
of Act.

4. (1) This Act applies only to such portion or portions of the State as the Governor may by proclamation declare to be a totalisator agency region.

(2) The Governor may on the recommendation of the Minister and the Board, from time to time, and at any time, by proclamation declare any portion or portions of the State to be a totalisator agency region for the purposes of this Act and thereupon this Act shall apply to each totalisator region so proclaimed.

(3) A proclamation made under this section may be cancelled or from time to time varied by a subsequent proclamation.

Establish-
ment of the
Board.

5. (1) There shall be constituted under and in accordance with the provisions of this Act, a body having the duties imposed and the powers conferred by this Act.

Name.

(2) The name of the body shall be the Totalisator Agency Board.

(3) By that name the Board shall be a body corporate with perpetual succession and an official seal in the form prescribed by its rules and shall be capable in law of suing and being sued and of taking, purchasing, holding, exchanging, leasing and disposing of real and personal property and of doing and suffering all that bodies corporate may do and suffer.

Board a body corporate.

(4) All courts, judges and persons acting judicially shall take judicial notice of the official seal of the Board affixed to a document and shall presume that it was duly affixed.

Judicial notice.

(5) When constituted the Board is for the purposes of any Act a public authority.

Board a public authority.

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

Vacancy in membership not to invalidate acts of Board.

(7) The appointment of a member is not invalidated and shall not be called in question by reason of a defect or irregularity in or in connection with his nomination.

Defect in nomination of member not to invalidate appointment.

6. (1) The Board shall consist of seven members, who shall be appointed by the Governor and shall be—

Constitution of Authority.

- (a) a person appointed upon the nomination of the Minister, who shall be chairman of the Board;
- (b) three persons appointed upon the nomination of the Club one of whom is to be nominated by a conference of Country Racing Associations and who shall be members of the Club; and
- (c) three persons appointed upon the nomination of the Association and who shall be members of the Association one of whom is to be nominated by a conference of Country Trotting Associations.

Failure to
nominate
members.

(2) If at any time the Club or the Association fails to submit to the Minister a nomination of a person or persons for the purposes of this section, within fourteen days after the receipt of a written request from the Minister to do so, the Governor may without the nomination appoint any otherwise eligible person or persons to be a member or members of the Board, and the person or persons so appointed shall, for all purposes, be deemed to be duly appointed.

Member
eligible for
re-appoint-
ment.

(3) Subject to the provisions of this section, a person is eligible for appointment to office of member of the Board notwithstanding that he has previously occupied that office.

Vacation of
office.

(4) If a member—

- (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;
- (b) is absent, except on leave granted by the Minister, from four consecutive meetings of the Board;
- (c) becomes permanently incapable of performing his duties;
- (d) becomes a person who would not be qualified to be appointed a member;
- (e) dies or resigns his office by writing under his hand addressed to the Governor and the resignation is accepted;
- (f) is informed in writing by the Governor that, for good cause, his appointment as member is terminated;
- (g) is convicted of any indictable offence;
- (h) otherwise than as a member and in common with other members of an incorporated company consisting of not less than fifty-one persons—
 - (i) becomes concerned or interested, without the approval of the Governor, in any contract or agreement entered into by or on behalf of the Board;

- (ii) participates or claims to participate in the profit of any such contract or agreement or in any benefit or emolument arising from such a contract or agreement,

the Governor shall, by notice in the Gazette, declare that the office of the member is vacant, and thereupon the office shall be deemed to be vacant.

7. (1) Where by the operation of the provisions of section six of this Act an office of member becomes vacant, the vacancy shall be deemed to be an extraordinary vacancy.

Filling of vacancies in membership.

(2) On the occurrence of any vacancy in an office of member a qualified person shall, in accordance with the provisions of this Act, be appointed by the Governor to fill the vacancy, and any person appointed to fill an extraordinary vacancy holds office, subject to those provisions, for the remainder of the term of office of the person in whose place he is appointed.

8. (1) Persons nominated in accordance with the provisions of section six of this Act may be appointed by the Governor as deputies to act in the respective offices of member in the absence of the occupants of the offices.

Deputies.

(2) The provisions of subsections (2) and (4) of section six of this Act apply in respect to deputies for members as if repeated in this subsection.

(3) Any person so appointed is entitled, in the event of the absence from a meeting of the Board of the member for whom he is the deputy, to attend that meeting and, when so attending, shall be deemed to be a member and is authorised to carry out any function which the member for whom he is the deputy if present could exercise, or would be required to carry out under this Act or the Betting Control Act, 1954.

Term of
office of
member.

9. (1) Subject to subsection (2) of this section, the term of tenure of office of a member expires by effluxion of time on the expiration of a period of three years commencing on the day specified in the notice of the appointment of the member published in the Gazette as the commencing day of that term.

(2) The respective terms of tenure of office of the persons first appointed to office of member expire by effluxion of time—

- (a) in the case of chairman, at the expiration of three years;
- (b) in the case of the three members appointed on the nomination of the Club and in the case of the three members appointed on the nomination of the Association, one member so nominated by the Club and one by the Association at the expiration of one year, two years, and three years respectively, in accordance with subsection (3) of this section,

commencing on the day specified in the notice of their appointment to the office of member published in the Gazette as the commencing day of the term.

(3) The Governor shall nominate the two members whose term of tenure of office is to be one year, two years or three years, as the case may be, when appointing them to the office of member.

Remunera-
tion of
members.

10. (1) The remuneration payable in respect of the respective offices of the Board is such as the Governor determines and is hereby authorised to determine from time to time.

Conditions
of service,
travelling
allowances.

(2) Conditions of service applicable to the respective offices of the Board, including travelling allowances, are, subject to the provisions of this Act, such as the Governor determines and is hereby authorised to determine from time to time.

(3) Remuneration payable and conditions of service applicable in respect to deputies appointed to act in the respective offices of the Board, including travelling allowances, are as the Governor determines and is hereby authorised to determine from time to time.

Conditions of service, etc., of deputies.

11. The Minister may grant leave of absence to a member or a deputy for a member upon such terms and conditions as the Minister determines.

Leave of absence.

12. (1) The chairman shall convene the first meeting of the Board to be held at a time and place appointed by him, and the Board shall meet accordingly and shall hold such further meetings as it considers necessary for the efficient conduct of its affairs.

Convening of meetings and meetings of Board.

(2) At a meeting of the Board—

- (a) four members form a quorum;
- (b) the chairman or, in his absence, the person appointed his deputy, shall preside;
- (c) all questions shall be decided by a majority of votes of the members present and voting; and
- (d) the chairman, or the person appointed his deputy when presiding, has a deliberative vote, and in the event of an equality of votes, has a casting vote.

13. (1) The Board may, in relation to any particular matter or class of matters or to a particular place, by writing under its seal, delegate to any number of members as a sub-committee, or where it is inconvenient or impracticable for a sub-committee to act, then to any member, all or any of its powers and functions under this Act or the Betting Control Act, 1954, except this power of delegation, so that the delegated powers and functions may be exercised by the delegate with respect to the matter or class of matters, or to the place, specified in the instrument of delegation.

Delegation

(2) A delegation under this section is revocable at will and no delegation shall prevent the exercise of a power or function by the Board.

Exemption
from
personal
liability.

14. A person who is or has been a member, deputy for a member, delegate or employee of the Board, is not personally liable for anything done or omitted in good faith in, or in connection with, the exercise or purported exercise of any power conferred, or the carrying out of any duty imposed, on the Board by this Act or the Betting Control Act, 1954.

Rules of
Board.

15. The Board may from time to time make rules, not inconsistent with any regulations made under this Act, for all or any of the following purposes, namely—

- (a) regulating its proceedings and the conduct of its meetings;
- (b) providing for the custody of its property and the form and use of its official seal;
- (c) prescribing the duties of its officers, agents and employees;
- (d) such purposes as may be deemed necessary or expedient for the operation of this Act or for carrying out the functions of the Board.

Manager,
secretary and
other officers
of the
Board.

16. (1) The Board—

- (a) may appoint and at any time remove a manager and a secretary and such other officers as the Board considers necessary for the purposes of this Act; and
- (b) may employ such temporary or casual employees as it thinks fit for those purposes.

(2) The manager and secretary and other officers and employees respectively hold their office or employment upon such terms and subject to such conditions and are entitled to receive such remuneration for their services as the Board in each case from time to time determines.

17. For the purposes of this Act the Board may—

Establishment of offices and agencies

- (a) establish in any totalisator agency region offices and totalisator agencies in such number and at such places therein as the Minister approves at or in which bets may be made in accordance with this Act on any horse race—
 - (i) on a totalisator through or with the Board; or
 - (ii) with the Board;
- (b) purchase or take on lease or license any land, building or premises and may erect buildings and may equip, fit and furnish any buildings or premises for and as such offices and totalisator agencies;
- (c) enter into any agency contracts or other contracts or arrangements whatsoever and may carry them into effect; and
- (d) exercise such other powers and perform such other functions as may be prescribed by rule or regulation.

18. (1) All expenses of or connected with or arising out of—

Expenses of establishment of Board and its operations.

- (a) the establishment of the Board and its offices and totalisator agencies and the carrying out of the matters referred to in section seventeen of this Act; and
- (b) the conduct of the operations of the Board under this Act,

shall until such time as the Board is able to meet them in full from its funds, be borne by—

- (c) an unsecured loan to the Board of a sum of fifty thousand pounds free of interest by the Club and the Association; and
- (d) such other moneys as the Board may borrow under the provisions of section nineteen of this Act.

(2) The loan referred to in paragraph (c) of subsection (1) of this section shall be made by the Club and the Association in equal shares or such other shares as the Club and the Association agree upon.

(3) The Club and the Association shall pay to the Board the sum of fifty thousand pounds referred to in subsection (1) of this section within fourteen days of the Board requesting them in writing so to do.

(4) The Board shall repay the loan referred to in paragraph (c) of subsection (1) of this section at the expiration of a period of ten years from the date of the making of the loan or such lesser period as the Board, the Club and the Association, with the approval of the Treasurer, agree upon.

**Borrowing
powers of
the Board.**

19. (1) With the prior approval of the Treasurer of the State, the Board may borrow moneys, whether by way of mortgage, debentures, bonds, overdraft or otherwise, and may mortgage or charge any of its real or personal property, whether present or future, in such manner as the Treasurer thinks fit.

(2) The Treasurer may from time to time, upon and subject to such terms and conditions as he thinks fit, and without further authority than this section, guarantee on behalf of the Crown in right of the State, the due redemption of the principal moneys so borrowed and the due payment of all interest thereon, but this subsection does not apply to the loan made by the Club and the Association referred to in subsection (2) of section eighteen of this Act.

(3) The liability of the Treasurer at any one time under any guarantee or guarantees given by him under this Act shall not exceed in the aggregate the sum of three hundred and fifty thousand pounds inclusive of interest and any other charges.

(4) The Treasurer shall cause any money required for fulfilling any guarantee given by him under this Act, to be paid out of the Public Account, which account is hereby to the necessary extent appropriated accordingly, and shall cause any sums received or recovered by the Treasurer from the Board or otherwise in respect of a sum so paid by the Treasurer to be paid into the Public Account.

20. (1) Notwithstanding anything contained in any other Act or law to the contrary, it shall be lawful in accordance with this Act—

Authorising
off course
totalisator
bets and bets
with Board in
accordance
with this
Act.

- (a) for bets by way of wagering or gaming in respect of horse races to be lodged with and received by or on behalf of the Board for transmission of the bets by the Board to a totalisator on a race course within the State;
- (b) for the Board to retain any such bets and not so transmit them, where the bets are so lodged or so received after the prescribed closing time for the acceptance of the bets on the horse race in respect of which the bets are made or if in the opinion of the Board it is impracticable for the Board to so transmit the bets;
- (c) for bets by way of wagering or gaming in respect of such horse races conducted on such race courses outside the State as are prescribed, to be made with and received by or on behalf of the Board, or placed by the Board in a totalisator pool conducted by it on any such horse race in accordance with this Act; and

- (d) for dividends to be paid by the Board in respect of those bets,

at totalisator agencies situated elsewhere than at race courses.

"This Act"
includes
regulations.
See No. 30
of 1918.

(2) The mere fact of any persons betting on any totalisator through the Board or conducted by the Board or betting with the Board pursuant to this Act—

- (a) shall not constitute the betting an offence, whether at common law or by any Act, either by those persons or by the Board or any of its officers or agents or any of its employees; and

(b) shall not be a ground for any office or totalisator agency of the Board or any part thereof, being deemed or declared, whether at common law or by any Act, to be or to be used as a common betting house or a common gaming house, or to be a common nuisance and contrary to law.

Exclusion and saving of provisions of Criminal Code and Police Act.

(3) A person shall not be prosecuted or convicted, or be liable to prosecution or conviction, or subject to penal consequence under the provisions of the Criminal Code, 1913, or of the Police Act, 1892, by reason of anything done by him under and in accordance with this Act; but subject to this Act, the provisions of that Code and of that Act, relating to common gaming houses and common betting houses, or unlawful betting, are of full force and effect, and as affected by this Act, the Code and the Act are amended and may be cited in accordance with the Schedule to this Act.

Schedule.

(4) Nothing in this section shall be construed as precluding the Board from determining not to accept bets at all or any of its totalisator agencies on all or any horse races held at any race meeting on which bets could be lawfully made by virtue of this section.

Totalisator Investments made through Board to form part of moneys invested on race course totalisator.

21. (1) Subject to subsection (2) of this section every bet made through the Board to be transmitted to a totalisator conducted with respect to a horse race to be run in the State which is received by the Board before the prescribed closing time for the acceptance of such bet on that horse race and which is so transmitted, is received by the Board as agent for the racing club conducting the totalisator.

(2) The Board may so receive and so transmit such bets or itself make and receive bets and not so transmit them at such times and on such horse races run in the State and outside the State as may be prescribed by the regulations.

22. (1) All moneys payable by way of dividends in respect of any bet referred to in paragraph (a) or (b) of subsection (1) of section twenty of this Act, shall be paid by the Board to persons entitled thereto in accordance with the respective amounts of the dividends declared by the totalisator conducted on the race course on the horse race on which the bet was made, notwithstanding that all such bets received by the Board have not formed part of the moneys on which the dividend was so declared.

Payment of dividends by the Board.

(2) All moneys payable by way of dividends in respect of any bet referred to in paragraph (c) of subsection (1) of section twenty shall be paid by the Board—

- (a) in accordance with the respective amounts of the dividends declared by the totalisator conducted on the race course outside the State on the horse race on which the bet was made; or
- (b) in accordance with the dividend declared by the Board on any horse race on which the bet was made where the bet is placed by the Board in a totalisator pool scheme which the Board is hereby authorised to conduct and operate on any horse race outside the State in accordance with the regulations.

23. (1) All moneys payable by way of dividends in respect of bets made on a totalisator on a race course through the Board and transmitted to the totalisator by the Board, shall be paid by the race clubs concerned to the Board and shall, subject to this Act, be paid or credited by the Board as agent for the race clubs to persons entitled thereto.

Dividends on moneys transmitted by Board to race clubs.

(2) The race club shall pay to the Board in respect of those dividends, the amount of the fractional part of one sixpence which has not been paid by the racing club by way of such dividends, and the amount shall form part of the general funds of the Board.

Unclaimed
dividends.

(3) Any moneys payable by way of dividends, whether by the Board or a racing club through the Board, which are unclaimed for one month by any person entitled thereto, other than moneys which are credited by the Board to a credit account established with it under this Act, shall be paid by the Board into a trust fund banking account to be called the "unclaimed dividends account".

(4) Any amounts standing to the credit of that banking account for a longer period than six months shall be carried to and form part of the funds of the Board and thereafter the owner of the money has no enforceable claim in respect thereof.

Percentage
of off course
bets to
belong to
Board.

24. Where the amount of any bet is received by the Board as agent for a racing club, the Board shall, before transmitting the amount of the bet to a totalisator on a race course, deduct therefrom by way of commission such portion of that amount as equals fifteen per centum thereof, and the amount so deducted shall be deemed for all purposes to belong to the Board and to form part of the general funds of the Board.

Totalisator
Board
betting tax.

25. The Board shall, in accordance with this Act—

- (a) make at such times and in such manner as may be prescribed true and full returns of all amounts of money received by it in respect of bets made in accordance with this Act;
- (b) pay tax on the whole of those moneys at the rate imposed by section two of the Totalisator Agency Board Betting Tax Act, 1960.

Board to
set aside
percentage
of bets
to meet
operation
costs, etc.

26. For the purposes of meeting capital expenditure incurred by the Board in the establishment of totalisator agencies pursuant to this Act, including the repayment of moneys borrowed by the Board, and of meeting any losses incurred by it in the

operation of the agencies, and for the establishment of reserve funds for any of those purposes, the Board shall pay into a separate bank account at the beginning of each month such amount as equals one and one-quarter per centum of the total amount of all bets made by or through the Board in accordance with this Act, during the last preceding month.

27. The Commissioner of Stamps appointed under the Stamp Act, 1921, is hereby authorised to pay and shall so pay to the Board, at such times as are agreed upon between the Commissioner and the Board, the amount of the duty from time to time received by him under subsection (4) of section three of the Totalisator Duty Act, 1905, and the amount so paid shall form part of the general funds of the Board.

Commissioner of Stamps to pay percentage of totalisator duty to Board.

28. (1) The Board after paying—

Allocation of the funds of the Board.

- (a) to any race club the amount transmitted by the Board in accordance with this Act to any totalisator operated by the race club;
- (b) all moneys payable by way of dividends in respect of bets made through or with the Board;
- (c) the amount of the betting tax imposed by section twenty-five of this Act;
- (d) all other outgoings and expenses of the Board including the payment of the amount of the percentage into the separate bank account as referred to in section twenty-six of this Act,

shall pay the balance of its funds then remaining from time to time to the Club and the Association by periodical or other payments as agreed between the Board, the Club and the Association and in default of agreement, as the Minister directs.

(2) The amount to be so paid to the Club by the Board from the balance of its funds so remaining shall be such proportion thereof as the amounts of money received by the Board in respect of all bets made in accordance with this Act—

- (a) on horse races of ridden horses held in the State; and
- (b) seventy-five per centum of the amount of those bets made on horse races held outside the State,

during the period to be accounted for, bears to the total amount of all bets received by the Board on all horse races during that period.

(3) The amount to be so paid to the Association by the Board from the balance of its funds so remaining shall be such proportion thereof as the amounts of money received by the Board in respect of all bets made in accordance with this Act—

- (a) on races of trotting horses held in the State; and
- (b) twenty-five per centum of the amount of bets made on horse races held outside the State,

during the period to be accounted for, bears to the total amount of all bets received by the Board on all horse races during that period.

(4) The Club shall, from any sum received by it from the Board pursuant to subsection (3) of this section—

- (a) distribute as soon as practicable twenty per centum thereof among the racing clubs registered with it conducting horse races outside of the Metropolitan Area in such manner that each of those clubs receives such part of that percentage as bears to the whole of that percentage the ratio which the amount of the stakes paid by the club during the last preceding racing year bears to the total amount of stakes paid by all of those clubs during that year;

(b) retain eighty per centum thereof for its own use.

(5) The Association shall, from any sum received by it from the Board pursuant to subsection (3) of this section—

- (a) distribute as soon as practicable fifteen per centum thereof to racing clubs registered with it conducting horse races outside the Metropolitan Area in such manner that each of those clubs receives such part of that percentage as bears to the whole of that percentage the ratio which the amount of stakes paid by the club during the last preceding racing year bears to the total amount of stakes paid by all of those clubs during that year;
- (b) with respect to eighty-five per centum thereof, share that percentage with all racing clubs registered with it conducting horse races in the Metropolitan Area, in such manner that each of those clubs and the Association receives such part of that percentage as bears to the whole of that percentage the ratio which the amount of stakes paid by the club or the Association during the last preceding racing year bears to the total amount of stakes paid by all of those clubs and the Association during that year.

29. Notwithstanding the provisions of any law relating to stamp duties, no stamp duty shall be payable upon any totalisator ticket or receipt given or cheque drawn by the Board.

Exemption
of Board
from stamp
duties.

30. The amount of any money transmitted by the Board to a totalisator on a race course as agent for a racing club is not subject to the provisions of the Totalisator Duty Act, 1905, except subsection (2) of section three of that Act, or of the Totalisator Regulation Act, 1911.

Bets
transmitted
by Board to
totalisator
not subject
to certain
Acts.

Board to
have first
right to
registered
premises.

31. (1) Except with the prior approval in writing of the Board, a person shall not—

- (a) without first notifying the Board in manner prescribed; and
- (b) until forty-two days after the area in which the premises are situated has been declared a totalisator agency region, or such lesser period as the Board advises the person in writing—
 - (i) sell or purchase any estate in any premises that were registered premises within the meaning of the expression “registered premises” in the Betting Control Act, 1954 immediately prior to the declaration of the area as a totalisator region;
 - (ii) give or take an option for the purchase of any estate in such premises;
 - (iii) let or take on lease or license such premises;
 - (iv) execute a transfer or assignment of any lease of such premises;
 - (v) otherwise dispose of, or acquire, any estate in such premises.

(2) Where a transaction is entered into in contravention of this section, the transaction is void and in addition any person who contravenes this section commits an offence.

Penalty: Two hundred pounds.

(3) Notwithstanding the provisions of this section, the Minister may, where he is of opinion that the circumstances of the particular case justify it, exempt any person from the provisions of this section.

Registration
of licensed
premises and
licenses
for certain
bookmakers
cancelled.

32. (1) Where any portion of the State is declared under this Act to be a totalisator agency region—

- (a) every premises that were, immediately prior to the declaration, registered premises within the meaning of the expression

“registered premises” in the Betting Control Act, 1954, shall by force of this section cease to be such; and

- (b) every license issued under the Betting Control Act, 1954 which entitles the holder to carry on the business of a bookmaker in person or by his employee at such registered premises and which is current immediately prior to the declaration, is by force of this section cancelled,

and no compensation is payable by the Crown in right of the State or by any person in respect of any loss which may be suffered directly or indirectly as a result of the operation of this section.

(2) Nothing in this Act shall operate so as to prejudice any bet which the holder of a license had lawfully made with any person prior to the date of the declaration referred to in subsection (1) of this section.

(3) The Commissioner of Stamps appointed under the Stamp Act, 1921, shall refund to the holder of the license and the holder of the certificate of registration of the premises, an amount which bears to the amount of the license fee or the registration fee, the same proportion which the number of days for which the license or registration ceases to be in operation during the period for which they were respectively granted, bears to three hundred and sixty-six.

33. The following provisions apply in relation to betting through the Board:—

Provisions
relating to
bets through
Board.

- (a) the Board, or any of its officers, agents or employees shall not accept a bet unless made—
 - (i) by the deposit of the amount of the bet in cash at a totalisator agency;
 - or

“This Act”
includes
regulations,
rules, etc.
See Act No.
30 of 1918,
s. 4.

- (ii) by letter sent through the post or by telegram or telephone message received at a totalisator agency, in accordance with the provisions of this Act;
- (b) the Board, or any of its officers, agents or employees shall not accept any bet that is made by letter or by telegram or telephone message on any horse race unless—
- (i) the person making the bet has, before the beginning of the race meeting at which the horse race is to be held, established with the Board in accordance with this Act, a credit account sufficient to pay the amount of the bet and has maintained the account up to the time of making the bet and the bet is charged against that account; or
- (ii) alternatively, in the case of a bet made by letter or telegram, the amount of the bet is forwarded through the post with the letter or payment thereof is arranged by telegram in accordance with this Act;
- (c) a dividend payable in respect of any bet made in accordance with this Act is payable in accordance with this Act at the totalisator agency where the bet was received on the day on which the horse race, whereon the bet was made, is run.

“Credit
accounts.”

34. A credit account may be established with the Board for any amount of not less than one pound and may in accordance with this Act be maintained by the payments of further moneys or the credit of winnings to that account.

“Minimum
amount
of a bet.”

35. The minimum amount of any bet that may be made pursuant to this Act shall be such as is prescribed, being an amount of not less than two shillings and sixpence.

36. (1) Members of the Board, the person occupying the office of Commissioner of Stamps under the Stamp Act, 1921, and persons authorised by the Board, the Commissioner or the Minister have at all times access, without charge, to and authority to inspect race courses, totalisators, totalisator agencies and other premises of the Board, and any person refusing such access or otherwise hindering, delaying or obstructing a member, the Commissioner, or person so authorised, in the carrying out of his duties, commits an offence.

Power of members of the Board, Commissioner of Stamps and other persons to enter race courses and totalisator agencies, etc.

Penalty: Fifty pounds.

(2) The person first referred to in subsection (1) of this section shall have such further powers and perform such further duties as may be prescribed.

37. A person who—

- (a) having the management or control of any totalisator agency authorises or permits or suffers the premises of that agency to be constituted or used, or any act or thing to be done or omitted in or in relation to that agency, in contravention of or failure of compliance with this Act;
- (b) having the management or control of or being employed or acting in any capacity in connection with any totalisator agency, accepts from any person any bet which is prohibited by or does not conform to this Act;
- (c) not being a person lawfully managing or controlling or being employed in any totalisator agency sells or offers to sell any totalisator ticket purporting to be issued by the Board; or
- (d) purchases any such ticket from any person not authorised to sell the same,

Offences in respect of conducting totalisator agencies.

"This Act" includes regulations. See Act No. 30 of 1918, s. 4.

commits an offence.

Penalty: For a first offence one hundred pounds or imprisonment for three months; for a second offence two hundred pounds or imprisonment for

- (d) employ in any totalisator agency any person who has not attained the age of twenty-one years;
- (e) use or permit the use in any totalisator agency, of any appliance capable of being used for receiving broadcast programmes or television or reproducing or increasing the volume of sound, unless the volume of sound emitted by the appliance is so controlled that it does not constitute an annoyance to persons outside the totalisator agency.

Penalty: For a first offence twenty-five pounds; for any subsequent offence one hundred pounds or imprisonment not exceeding six months.

**Offences by
minors.**

43. No person under the age of twenty-one years shall—

- (a) enter or remain in any totalisator agency while it is open for the lodging or receiving of bets except for the purpose of delivery of mail or goods, or effecting repairs, or otherwise carrying out his duties, but this exception does not authorise employment contrary to the provisions of paragraph (d) of section forty-two of this Act;
- (b) make a bet with or through the Board; or
- (c) request any other person to place such a bet for him.

Penalty: For a first offence five pounds; for any subsequent offence twenty-five pounds.

Offences.

44. No person shall knowingly—

- (a) loiter in front of any totalisator agency while it is open for the lodging or receiving of bets;
- (b) take a person under the age of twenty-one years into any totalisator agency unless for a purpose referred to in paragraph (a) of section forty-three of this Act;

- (c) take intoxicating liquor or any noxious substance into a totalisator agency;
- (d) place a bet with or through the Board for a person under the age of twenty-one years, or for a person prohibited from entering a totalisator agency premises.

Penalty: For a first offence five pounds; for any subsequent offence twenty-five pounds.

45. (1) Subject to the provisions of subsection (2) of this section, any person who—

Unlawful
betting.

- (a) carries on business as a bookmaker; or
- (b) bets with a bookmaker, other than a bookmaker hereinafter referred to in this section, on the result of any horse race,

at any time or at any place, commits an offence.

Penalty: For a first offence one hundred pounds; for a subsequent offence imprisonment for not less than three months nor more than six months, and the provisions of paragraph (a) of subsection (2) of section forty-six of this Act apply to any penalty imposed under this subsection as though it were repeated in this subsection.

(2) Subsection (1) of this section does not apply to any bookmaker who is the holder of a license under the Betting Control Act, 1954 which entitles him to carry on the business of a bookmaker in person upon a race course and who carries on that business and bets in accordance with that Act, or to any person who bets with any such bookmaker in accordance with that Act.

46. (1) No person shall be in or upon any public place for the purpose of betting except by means of a totalisator duly authorised to operate under any Act or for the purpose of betting in accordance with this Act.

Being in
public place
for betting.

Penalty: For a first offence fifty pounds; for a second offence imprisonment for not less than three months nor more than six months; for a third or any subsequent offence imprisonment for not less than six months nor more than twelve months.

Evidence as
to offences.

50. If on the hearing of any complaint for an offence against section forty-five or forty-six of this Act the court is of opinion that any money or thing which has to its satisfaction been proved to have been given to, or received, or paid by the accused person, or given to, or received, or paid by any person or persons on his behalf, has been given, received or paid in circumstances which, in the mind of the court, raise a reasonable suspicion that the money or thing was so given, received, or paid in contravention of the purposes and provisions of this Act, or any of them, such giving, receiving, or paying shall be deemed *prima facie* evidence of the commission by the accused person of the offence charged against him in the complaint.

Reasonable
suspicion
sufficient to
set up a
prima facie
case.

51. (1) If on the hearing of any complaint against a person for an offence against section forty-five or forty-six of this Act, the evidence of the prosecution is such as to raise in the mind of the person hearing the complaint a reasonable suspicion that the person is guilty of the offence charged against him in the complaint, that evidence shall be deemed to be *prima facie* evidence that the person is guilty of that offence.

(2) The provisions of this section do not limit the effect of any provision of section fifty of this Act, and the provisions of that section do not limit the effect of any provisions of this section.

Unlawful
betting on
licensed
premises.

52. (1) If—

- (a) any person is convicted for an offence under section forty-six of this Act; and
- (b) the offence took place on premises in respect of which a license has been granted under the Licensing Act, 1911,

the person holding or entitled to exercise the license commits an offence.

Penalty: For a first offence twenty-five pounds; for any subsequent offence fifty pounds.

(2) In any proceedings against a person under this section, any statement on the conviction for the offence under section forty-six of this Act, as to the place where the offence was committed shall be prima facie evidence of the place where the offence was committed.

(3) It is a defence to any charge of an offence under this section to show—

- (a) that the accused person or, if the accused person was not on the premises at the time the offence against section forty-six was committed, the person then in charge of the premises, did not know and could not by the exercise of all practical diligence have known that the offence was being committed; or
- (b) that the offence was committed contrary to the will of the accused person or, if the accused person was not on the premises at the time the offence was committed, contrary to the will of the person who was then in charge of the premises, and that the accused person or the person so in charge, as the case may be, took all reasonable steps to prevent the offence from being committed.

53. (1) If any member of the police force of the State has reasonable grounds for suspecting that any person whom he finds on any premises in respect of which a license has been granted under the Licensing Act, 1911, has at any time on that day on which he finds him been guilty of betting or offering to bet contrary to the provisions of this Act, on those premises, or that that person is on those premises for the purpose of so betting, that member of the police force may without warrant arrest that person and remove him from the premises or cause him to be so arrested or removed.

Power of
police to
remove
persons
betting from
licensed
premises.

(2) If any person who has been so removed from any such premises re-enters or is again upon those premises during that day on which he was so removed, he commits an offence.

Penalty: Fifty pounds.

(3) No member of that police force who has acted bona fide in the intended exercise of the powers conferred on him by subsection (1) of this section, and no person acting under the instructions of, or for the purpose of assisting the member, is liable to any proceedings, civil or criminal, in consequence of his having so acted.

Offences
generally,
general
penalty.

54. (1) A person who does not do a thing, which by or under this Act he is required or directed to do, and a person who does or attempts to do a thing, which by or under this Act he is prohibited from doing, commits an offence against this Act.

(2) A person who commits an offence against this Act is liable to the penalty expressly mentioned as the punishment for the offence, but where a penalty is not expressly mentioned, is liable—

- (a) where the offence is not a continuing offence, to a maximum penalty of one hundred pounds; and
- (b) where the offence is a continuing offence, to a penalty of two pounds for each day during which the offence continues.

Effect of
bets trans-
mitted by
Board to
totalisators
on existing
contracts for
working
totalisators

55. (1) Where any person has contracted with any racing club to operate a totalisator at race meetings to be conducted by the racing club, and any remuneration payable to that person under the contract is to be calculated as a part or percentage of the moneys received from bets on the totalisator, or of any amount to be deducted or retained by the racing club from those moneys pursuant to the Totalisator Duty Act, 1905, or is otherwise to be ascertained by reference to those moneys or to that amount, no amounts transmitted to the totalisator by the Board, as agent for the racing club, shall be taken into account for the purpose of calculating or ascertaining the amount of that remuneration, unless it is expressly provided in the contract that the amounts so transmitted are to be taken into account for that purpose.

(2) Except with the mutual consent of the parties thereto, no contract referred to in subsection (1) of this section shall be deemed to be varied or terminated by reason only of the transmission to the totalisator of such bets as are referred to in that subsection.

(3) This section applies only to contracts in force on the coming into operation of this Act.

56. (1) The Board shall prepare and submit to the Minister, not later than the thirtieth day of September in each calendar year, a report on the exercise and performance by the Board of its powers, functions and duties under this Act during the twelve months ended on the preceding thirty-first day of July. Annual report of Board.

(2) The Minister shall lay the report of the Board before each House of Parliament within six sitting days of that House after the receipt of the report by the Minister.

57. (1) The Board may, with the approval of the Governor, make regulations for giving effect to the operation of this Act and without affecting the generality of the foregoing may by the regulations— Regulations.

- (a) control the admission of persons to any totalisator agency and exclude from the totalisator agency any specified class of persons, either absolutely or subject to such conditions as are prescribed in the regulations, and provide that any person who commits a breach of the regulations made under this paragraph may be removed from the totalisator agency by any member, officer, agent or servant of the Board or by an inspector or member of the police force of the State;
- (b) define the functions and powers of the Board additional to those expressly mentioned in this Act and the powers of the members, the Commissioner of Stamps, and persons authorised under section thirty-six of this Act;

- (c) provide for the establishment, maintenance, conduct and operation of totalisator agencies and generally regulate and control the lodging and receipt of bets to be transmitted to a totalisator and bets with the Board at totalisator agencies and totalisator pools conducted by the Board and further provide for the establishment of totalisator pools by the Board and the mode of conducting and operating such pools by the Board;
- (d) provide for the receiving at totalisator agencies of bets in respect of horse races conducted on racecourses within the State and bets in respect of horse races conducted on racecourses outside the State, and the manner in which the investments and bets may be made and the times at which and conditions upon or subject to which the investments and bets may be made and received;
- (e) provide for the transmission of particulars of the investments to officers, agents or employees of racing clubs at racecourses for registration on totalisators;
- (f) provide for the payment at or from totalisator agencies of dividends payable in respect of bets made on a totalisator through the Board and bets made with the Board, and the times at which and the manner in which the dividends may be paid;
- (g) provide for the method of accounting as between racing clubs and totalisator agencies in respect of bets received and transmitted or received by the Board, and in respect of dividends;
- (h) such other matters as may be necessary for the proper operation and control of totalisator agencies;

- (i) provide for the imposing as a penalty for the breach of a regulation so made a sum not exceeding one hundred pounds.

(2) Any rules or regulations made in relation to a totalisator on a racecourse, so far as they are applicable, apply in relation to bets made through the Board on that totalisator as if the bets were made directly into the totalisator, and regulations or rules made under this Act may modify any such rule or regulation to such extent as is necessary to make it applicable in relation to bets made through the Board and transmitted to a totalisator.

(3) Where and to the extent that there is inconsistency between—

- (a) the provisions of regulations having effect under this Act; and
- (b) the provisions of any rules made by the Board having effect under this Act or by-laws having effect under the Western Australian Turf Club Act, 1892, or under the Western Australian Trotting Association Act, 1946, or by-laws, rules or regulations made by a racing club under the Associations Incorporation Act, 1895, or any other Act,

the provisions referred to in paragraph (a) of this section prevail.

SCHEDULE.

PART I.

Criminal Code.

1. In this Part of this Schedule "Code" means The Criminal Code as contained in the Schedule to the Criminal Code Act, 1913, Act No. 28 of 1913 and as amended by Acts Nos. 32 of 1918, 51 of 1932, 15 of 1942, 40 of 1945, 27 of 1952, 55 of 1953, 20 of 1954, 63 and 73 of 1954, 11, 43 and 74 of 1956 and 50 of 1957.

2. Subsection (2) of section two hundred and eleven of the Code is amended by—

- (a) deleting the words, "and to" in the second last line; and
- (b) adding after the figures "1954" at the end of the subsection, the passage, "and to the Totalisator Agency Board Betting Act, 1960".

S. 20 (3).

The Criminal Code.
Reprinted in Vol. 8 of the Reprinted Acts, approved for reprint 29th June, 1955.
S. 211 amended.

S. 20 (3).

PART II.

Police Act, 1892.

Short title
and citation.
Reprinted
in Vol. 6 of
the Reprinted
Acts as
approved for
reprint
23rd March,
1953.

1. (1) In this Part of this Schedule the Police Act, 1892-1959,

Act *Victoriae* No. 27, 1892, as reprinted with amendments to and including Act No. 15 of 1952 incorporated pursuant to the Amendments Incorporation Act, 1938, and as further amended by Acts Nos. 6 and 25 of 1954, 8 of 1955, 2 of 1956, 40 of 1958 and 10 of 1959,

is referred to as the principal Act.

(2) The principal Act as amended by this Act may be cited as the Police Act, 1892-1960.

S. 83A
amended.

2. Section eighty-three A of the principal Act is amended—

- (a) by adding after the section number, "83A", the subsection designation, "(1)";
- (b) by deleting the word, "and" in the third line;
- (c) by adding after the figures, "1954" in the last line the passage, "and the Totalisator Agency Board Betting Act, 1960"; and
- (d) by adding a subsection as follows—

(2) Without prejudice to the operation of subsection (1) of this section, the provisions of sections eighty-four G and eighty-four H of this Act do not apply to the Totalisator Agency Board established under the Totalisator Agency Board Betting Act, 1960.
