

Western Australia

**Racing and Wagering Legislation Amendment  
Act 2009**

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As at 23 Nov 2009

No. 29 of 2009

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# Racing and Wagering Legislation Amendment Act 2009

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## **Racing and Wagering Legislation Amendment Act 2009**

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**No. 29 of 2009**

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**An Act to amend —**

- **the *Betting Control Act 1954*; and**
- **the *Gaming and Wagering Commission Act 1987*; and**
- **the *Racing and Wagering Western Australia Act 2003*,  
and for related purposes.**

[Assented to 23 November 2009]

The Parliament of Western Australia enacts as follows:

## **Part 1 — Preliminary**

**1. Short title**

This is the *Racing and Wagering Legislation Amendment Act 2009*.

**2. Commencement**

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

## Part 2 — *Betting Control Act 1954* amended

### 3. Act amended

This Part amends the *Betting Control Act 1954*.

### 4. Long title amended

In the long title:

- (a) delete “**bookmakers**” and insert:

**bookmakers, other betting operators**

- (b) delete “**to prohibit betting through, and the establishment and operation of, betting exchanges;**”.

### 5. Section 4 amended

- (1) In section 4(1) insert in alphabetical order:

*approval* means an approval under section 27D(2);

*authorisation* means an authorisation under section 27F that has effect;

*domestic betting operator* means a person who in this State or another State or a Territory is authorised under a law of that State or Territory to engage in or conduct the business of betting on races;

*offshore betting operator* means a person who is authorised under the law of a jurisdiction outside Australia to engage in or conduct the business of betting on races or sporting events;

**WA race field** means information that identifies, or is capable of identifying, the names or numbers of the horses or greyhounds —

- (a) that have been nominated for, or that will otherwise take part in, an intended race to be conducted in this State; or
- (b) that have been scratched or withdrawn from an intended race to be conducted in this State.

- (2) In section 4(1) in the definition of **totalisator agency** delete “with RWWA.” and insert:

with RWWA;

**6. Sections 14A and 14B inserted**

At the beginning of Part 3 insert:

**14A. Betting operators’ liability to lodge returns and to pay racing bets levy**

- (1) In this section —

**betting operator** means —

- (a) a domestic betting operator; or
- (b) an offshore betting operator; or
- (c) the operator of a betting exchange;

**gross revenue** means charges, commission, consideration, earnings, fees, reward or other remuneration (however described) payable to or received by a betting operator in relation to racing bets placed with, or placed and accepted through, the operator;



**racing bet** means a bet placed with, or placed or accepted through, the betting operator that is —

- (a) placed with a domestic betting operator or an offshore betting operator; or
- (b) of the type referred to in paragraph (a) or (b) of the definition of **betting exchange** in section 4AA,

on a horse or greyhound race conducted in Western Australia;

**turnover** means the total amount of racing bets and includes bet backs placed on the backers side of the bets by one bookmaker with another bookmaker solely for the purpose of lowering the risk incurred by the bookmaker on bets already accepted from a customer.

- (2) In respect of racing bets placed with, or placed or accepted through, a betting operator on or after 1 September 2008, the betting operator must —
  - (a) within the period prescribed, lodge with the Commission a return in the form approved by the Commission in writing; and
  - (b) at the time of lodging each return required by paragraph (a), pay to the Commission the racing bets levy on the whole of the gross revenue or turnover, as the case may be, of the betting operator at the rate imposed by the *Racing Bets Levy Act 2009*.

Penalty:

- (a) a fine of \$10 000;
- (b) for each separate and further offence committed by the person under the *Interpretation Act 1984* section 71, a fine of \$1 000.

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- (3) Section 18B(2) to (6) apply as if a reference in those provisions —
  - (a) to the bookmaker's betting levy were a reference to the racing bets levy; and
  - (b) to a bookmaker were a reference to a betting operator.
- (4) An amount that is payable by a person to the Commission under this section but is not paid may be recovered from that person as a debt due to the Commission in any court of competent jurisdiction.

**14B. Transitional**

If a bookmaker has paid an amount of levy under section 14(2)(b) in relation to a racing bet (as defined in section 14A(1)) placed with the bookmaker in the period beginning on 1 September 2008 and ending on the day on which this Act receives the Royal Assent, that amount is to be credited against any amount that the bookmaker is liable to pay under section 14A(2)(b).

**7. Section 15 amended**

In section 15(5)(a):

- (a) in subparagraph (ii) delete “applies; or” and insert:  
  
applies,
- (b) delete subparagraph (iii).

**8. Section 16 amended**

In section 16(3a)(a):

- (a) in subparagraph (ii) delete “applies; or” and insert:

applies,

- (b) delete subparagraph (iii).

**9. Section 23 amended**

In section 23(1):

- (a) in paragraph (a) delete “in a place; or” and insert:

in a place in this State; or

- (b) in paragraph (b) after “public place” insert:

in this State

**10. Section 24 amended**

- (1) In section 24(1) delete “at any place,” and insert:

at any place in this State,

- (2) Delete section 24(1aa).

- (3) In section 24(1a) delete “subsection (1) or (1aa),” and insert:

subsection (1),

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- (4) In section 24(2) delete the definition of *interstate offence* and insert:

*interstate offence* means an offence under the law of another State or a Territory, which offence is declared by the regulations to be an offence that corresponds to an offence under that subsection.

**11. Section 27A amended**

- (1) In section 27A(1) in the definition of *offshore bet* paragraph (c) delete “outside Australia;” and insert:

outside Australia).

- (2) In section 27A(1) delete the definition of *offshore betting operator*.

**12. Sections 27B and 27C deleted**

Delete sections 27B and 27C.

**13. Section 27D amended**

- (1) Delete section 27D(1) and insert:

- (1) Section 27D applies to —
- (a) a person who in this State or elsewhere —
    - (i) carries on the business or vocation of, or acts as, a bookmaker; or
    - (ii) conducts betting by the operation of a totalisator; or
    - (iii) operates a betting exchange (however described); or

(iv) gains or endeavours to gain a livelihood wholly or partly by making bets;

or

(b) a person who is an employee or agent of a person referred to in paragraph (a).

(2A) A person to whom this section applies who, in this State or elsewhere, publishes or otherwise makes available a WA race field in the course of business commits an offence unless the person —

(a) is a domestic betting operator who —

(i) is authorised to do so by an authorisation; and

(ii) complies with any condition that is prescribed by the regulations for the purposes of section 27F(1);

or

(b) is an offshore betting operator who —

(i) is authorised to do so by an approval; and

(ii) complies with any condition to which the approval is subject.

Penalty: a fine of \$5 000.

(2) In section 27D(2):

(a) delete “a person” and insert:

an offshore betting operator

(b) delete “Minister” and insert:

Commission

**s. 14**

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(c) delete “the person” and insert:

the operator

(3) After section 27D(3) insert:

(4A) An approval is subject to the following conditions —

- (a) that the holder of the approval provide the Commission or an officer of RWWA approved in writing by the Commission with prescribed information and access in a prescribed manner;
- (b) that the holder of the approval comply with prescribed conditions for cooperating with authorised officers of the Commission and the Chief Steward of RWWA relating to the preservation of the integrity and reputation of racing in the State.

(4) In section 27D(4), (5), (6) and (7) delete “Minister” (each occurrence) and insert:

Commission

**14. Sections 27E and 27F replaced**

Delete sections 27E and 27F and insert:

**27E. Confidentiality**

- (1) This section applies to the following —
  - (a) a member of the Commission;
  - (b) an officer or employee who provides or has provided services to the Commission under the

*Gaming and Wagering Commission Act 1987*  
section 18(1);

- (c) a consultant who is or has been engaged by the Commission under the *Gaming and Wagering Commission Act 1987* section 18(3);
  - (d) an officer or former officer of RWWA who is or has been approved in writing by the Commission under section 27D(4A)(a) or 27F(2)(a) (an **approved officer**).
- (2) A person to whom this section applies must not, directly or indirectly, record, disclose or make use of any information provided to the Commission or an approved officer under section 27D(4A)(a) or 27F(2)(a) except —
- (a) for the purpose of performing functions under this Act or another written law; or
  - (b) in the case of an approved officer, the disclosure of information relating to the preservation of the integrity and reputation of racing in the State to the Integrity Assurance Committee established under the *Racing and Wagering Western Australia Act 2003* section 47(1); or
  - (c) as required under another written law; or
  - (d) with the written consent of the person to whom the information relates; or
  - (e) in other prescribed circumstances.

Penalty: a fine of \$10 000 or imprisonment for 12 months.

- (3) Subsection (2) does not apply to the extent to which the information disclosed is summary or statistical information that could not reasonably be expected to enable particulars relating to any person to be ascertained.

**27F. Authorisation of publication of WA race fields by domestic betting operators**

- (1) Subject to this section and compliance with any condition that is prescribed by the regulations for the purposes of this subsection, a domestic betting operator is in this State and elsewhere authorised to publish or otherwise make available a WA race field.
- (2) An authorisation is subject to the following conditions —
  - (a) that the domestic betting operator provide the Commission or an officer of RWWA approved in writing by the Commission with prescribed information and access in a prescribed manner;
  - (b) that the domestic betting operator comply with prescribed conditions for cooperating with authorised officers of the Commission and the Chief Steward of RWWA relating to the preservation of the integrity and reputation of racing in the State.
- (3) The Commission may, by notice in writing —
  - (a) cancel the authorisation of a domestic betting operator; or
  - (b) suspend the authorisation of a domestic betting operator for a period specified in the notice.
- (4) Before deciding to cancel or suspend the authorisation of a domestic betting operator, the Commission is to have regard to the prescribed criteria relating to a domestic betting operator.
- (5) If the Commission has reason to cancel or suspend the authorisation of a domestic betting operator, it is not to do so without giving the operator an opportunity to show cause why the authorisation should not be cancelled or suspended.



- (6) If the Commission decides to cancel or suspend the authorisation of a domestic betting operator, the Commission is to give notice in writing of the decision and the reasons for the decision to the operator.
- (7) If an authorisation of a domestic betting operator is cancelled, the operator may apply in a form approved by the Commission, after the date specified by the Commission in the notice given under subsection (6), for restoration of the authorisation.
- (8) An application under subsection (7) is to be accompanied by the prescribed fee (if any).

**15. Section 28A amended**

In section 28A(3) delete “27, 27A or 27B.” and insert:

27 or 27A.

**16. Section 28B amended**

In section 28B delete “27, 27A or 27B —” and insert:

27 or 27A —

**17. Section 28G amended**

(1) In section 28G delete “Any manager,” and insert:

(1) Any manager,

- (2) At the end of section 28G insert:
- (2) Subsection (1) does not apply to a bet received after the start of a sporting event but before the end of that event if —
- (a) the event has been, or is of a class of event that has been, approved in writing by the Commission for the purpose of this subsection;  
or
  - (b) the bet is received in the course of the participation by RWWA in —
    - (i) a combined totalisator pool scheme under the *Racing and Wagering Western Australia Act 2003* section 59;  
or
    - (ii) a jointly operated fixed odds wagering system under the *Racing and Wagering Western Australia Act 2003* section 61.

**Part 3 — *Gaming and Wagering Commission Act 1987* amended**

**18. Act amended**

This Part amends the *Gaming and Wagering Commission Act 1987*.

**19. Section 43A amended**

In section 43A(3):

(a) before paragraph (d) insert:

(da) a person who in another State or a Territory is authorised under a law of the State or Territory to engage in or conduct the business of betting on races or sporting events; or

(b) after each of paragraphs (a) and (b) insert:

or

**20. Section 110B inserted**

After section 110A insert:

**110B. Racing Bets Levy Account**

(1) An account called the Racing Bets Levy Account is to be established —

(a) as an agency special purpose account under the *Financial Management Act 2006* section 16; or

- (b) with the approval of the Treasurer, at a bank as defined in section 3 of that Act,

to which the Commission must credit moneys paid to or recovered by the Commission under the *Betting Control Act 1954* section 14A.

- (2) The Racing Bets Levy Account is to be administered by the Commission.
- (3) The Racing Bets Levy Account is to be applied for the purpose of the payment of the outgoings and expenses referred to in subsection (4)(a).
- (4) The Commission is to —
  - (a) withdraw from the Racing Bets Levy Account, at monthly intervals, a sum approved by the Minister for outgoings and expenses incurred by the Commission in administering the Account; and
  - (b) pay or credit, at prescribed intervals, the balance of that Account in accordance with this section.
- (5) The balance of the Racing Bets Levy Account is to be paid or credited to RWWA or paid or credited by the Commission, in such amounts as it determines, to the following —
  - (a) thoroughbred racing clubs registered with RWWA;
  - (b) harness racing clubs registered with RWWA;
  - (c) greyhound racing clubs registered with RWWA.

**21. Section 117 amended**

In section 117:

- (a) in paragraph (d) delete “Commission.” and insert:

Commission; and

- (b) after paragraph (d) insert:

- (e) for regulating (including prohibiting advertisements of a type that are not in the public interest) the content of advertisements that convey, or are likely to be understood as conveying, the existence (in this State or elsewhere) of —

- (i) a person referred to in section 43A(3)(a) to (da); or  
(ii) a person or class of person prescribed under section 43A(3)(d).

- (c) after each of paragraphs (a) and (b) insert:

and

**Part 4 — *Racing and Wagering Western Australia Act 2003* amended**

**22. Act amended**

This Part amends the *Racing and Wagering Western Australia Act 2003*.

**23. Section 30 amended**

Delete section 30(2)(ba) and “and” after it.

**24. Section 59 amended**

In section 59(3) delete “contractual arrangement entered into with that person.” and insert:

contractual arrangement.

**25. Section 61 amended**

In section 61(3) delete “contractual arrangement entered into with that person.” and insert:

contractual arrangement.

**26. Section 68 amended**

After section 68(2) insert:

- (3) A strategic development plan must set out the proportions in which funds will be distributed under section 107A(2).

**27. Section 77 amended**

In section 77(2):

- (a) after paragraph (c) insert:
  - (da) the proportions in which funds will be distributed under section 107A(2); and
- (b) in paragraph (g) delete “half-yearly and annual reports; and” and insert:

annual report; and
- (c) after each of paragraphs (a), (b), (c), (d), (e) and (f) insert:

and

**28. Section 107A inserted**

After section 106 insert:

**107A. Distribution of funds from the racing bets levy**

- (1) If RWWA receives moneys from the Commission under the *Gaming and Wagering Commission Act 1987* section 110B(5), RWWA is to credit those moneys to an account (the *racing bets levy account*) maintained under section 88 for the sole purpose of dealing with those moneys under this section.

- (2) The funds in the racing bets levy account are to be paid or credited by RWWA, in such amounts as it determines, to —
- (a) thoroughbred racing clubs registered with RWWA; and
  - (b) harness racing clubs registered with RWWA; and
  - (c) greyhound racing clubs registered with RWWA.

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