

Western Australia

## **Betting Legislation Amendment Act 2002**

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As at 08 Jul 2002

No. 13 of 2002

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## Betting Legislation Amendment Act 2002

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Western Australia

## Betting Legislation Amendment Act 2002

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No. 13 of 2002

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An Act to —

- amend the *Betting Control Act 1954*;
  - amend the *Totalisator Agency Board Betting Act 1960*; and
  - validate certain acts of the manager of the Totalisator Agency Board,
- and for related purposes.

[Assented to 8 July 2002]

The Parliament of Western Australia enacts as follows:

## **Part 1 — Preliminary**

**1. Short title**

This Act may be cited as the *Betting Legislation Amendment Act 2002*.

**2. Commencement**

This Act comes into operation on a day fixed by proclamation.

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

### **3. The Act amended in this Part**

The amendments in this Part are to the *Betting Control Act 1954*\*.

[\* Reprinted as at 20 February 1997.

*For subsequent amendments see 2000 Index to Legislation of Western Australia, Table 1, p. 36 and Act No. 10 of 2001.]*

### **4. Section 4 amended**

(1) Section 4(1) is amended as follows:

- (a) in the definition of “bookmaker”, by inserting after “whether on their own account or as” —  
“ a licensed manager, an ”;
- (b) by inserting the following definitions in the appropriate alphabetical positions —

“

“**ADI**” means authorized deposit-taking institution as defined in section 5 of the *Banking Act 1959* of the Commonwealth;

“**controlling interest**” means holds an interest in not less than fifty per centum (50%) of the issued shares of the body corporate;

“**licensed manager**” means the holder of a bookmaker’s manager licence issued under section 11 or a person acting as a licensed manager under section 11B(12) or 11C(11);

”.

(2) After section 4(2)(a) the following paragraph is inserted —

“

- (aa) to a bookmaker, includes a reference to a licensed manager acting under section 11D(5);

”.

(3) After section 4(2) the following subsection is inserted —

“

(3) For the purposes of this Act, a person occupies a position of authority in a body corporate if that person —

- (a) is a director of the body corporate;
- (b) exercises or exerts, or is in a position to exercise or exert, control or substantial influence over the body corporate in the conduct of its affairs;
- (c) in the case of a public company, has a controlling interest in the company; or
- (d) in the case of a proprietary company, is a shareholder in the company.

”.

**5. Section 4A amended**

Section 4A(2)(a) is amended by deleting “in the prescribed form” and inserting instead —

“ in a form approved by the Board ”.

**6. Section 7 amended**

After section 7(4)(b) the following paragraph is inserted —

“

- (ba) the character, reputation, and antecedents of any person who occupies or seeks to occupy a position of authority in a body corporate or is or wishes to become a member of a partnership that is the holder of, or an applicant for, a bookmaker’s licence, and of any associate or suspected associate of that person, including as to whether or not, and the extent to which, that person acts or is reputed to be accustomed to



act in accordance with the directions or  
interests of any other person;

”.

**7. Section 11 replaced by sections 11 to 11I**

Section 11 is repealed and the following sections are inserted  
instead —

“

**11. Licences and approvals relating to bookmaking**

(1) Applications for —

- (a) a bookmaker’s licence by a natural person, a partnership or a body corporate;
- (b) a bookmaker’s manager licence;
- (c) a bookmaker’s employee licence;
- (d) the renewal of a bookmaker’s manager licence or a bookmaker’s employee licence;
- (e) approval to become a member of a partnership that holds a bookmaker’s licence; or
- (f) approval to occupy a position of authority in a body corporate that holds a bookmaker’s licence,

may be made to the Board, which may grant or refuse an application for a licence, renewal or approval.

(2) On an application in a form approved by the Board accompanied by the prescribed fee being lodged with the Board, and on such supporting information as the Board may direct being furnished to the satisfaction of the Board, and in the case of an application for a bookmaker’s licence subject also to section 11E(1) or (2), if the case requires, the Board may grant the application and —

- (a) issue to the applicant a bookmaker’s licence; or

- (b) issue to the applicant, or renew, a bookmaker's manager licence or a bookmaker's employee licence.
- (3) A member or officer of the Board may inspect and take copies of any records produced to the Board under this Act, for use at the discretion of the Board.
- (4) The suspension, cancellation or surrender of a licence does not —
  - (a) affect the validity of a bond or other security entered into for the purposes of this Act by the holder or former holder of the licence, which security shall continue to have effect until discharged by the Board; or
  - (b) release the holder or former holder of the licence from any obligation in relation to a bet.
- (5) Where the holder of a licence is convicted of an offence under any other written law, or employs or engages in relation to the business carried on under the licence a person who is so convicted, the holder of the licence shall notify the Board of the conviction within 7 days of becoming aware of the conviction and shall furnish to the Board such information regarding that offence and the conviction as the Board may require.
- (6) A body corporate or each person who is a member of a partnership that holds a bookmaker's licence shall —
  - (a) within 7 days after any person becomes or ceases to be a person who occupies a position of authority in the body corporate or a member of the partnership, as the case may be, lodge with the Board a notice or ensure that a notice is lodged stating the full name and usual residential address of that person and the fact

that the person has become or ceased to be such a person or member; and

- (b) in the month of July in each year lodge with the Board a return in a form approved by the Board or ensure that the return is so lodged.

Penalty: \$1 000.

- (7) The annual return must state —
  - (a) the full name and usual residential address of every person who on 30 June preceding the lodging of the return was a person who occupied a position of authority in the body corporate or was a member of the partnership, as the case may be; and
  - (b) any other prescribed matter.

**11A. Bookmaker's licence — natural person**

- (1) When determining whether or not to approve an application by a natural person under section 11 for a bookmaker's licence, the Board —
  - (a) shall be satisfied that the applicant has knowledge of the business of bookmaking and the obligations of bookmakers under this Act;
  - (b) shall be satisfied that the applicant is not —
    - (i) a member of a partnership that holds a bookmaker's licence; or
    - (ii) a person who occupies a position of authority in a body corporate that holds a bookmaker's licence;
  - (c) shall be satisfied that the applicant is a fit and proper person and that no circumstances make it undesirable to grant a licence to that person; and

- (d) may take into account not only the applicant but also the repute and background of persons suspected by the Board to be associated with the applicant.
- (2) Subject to the provisions of this Act, a bookmaker's licence that is granted to a natural person, unless the licence is suspended or cancelled pursuant to a determination made administratively by the Board in the exercise of prescribed disciplinary powers, remains current during the lifetime of the holder or until the licence is surrendered.
- (3) No bookmaker's licence held by a natural person shall be transferable or pass to the personal representative of a deceased licensee or be, or be capable of being treated as, an asset in or the subject of any partnership.
- (4) The Board shall not grant a bookmaker's licence to a natural person if that person —
  - (a) is under the age of 18 years; or
  - (b) is an undischarged bankrupt.
- (5) A bookmaker's licence held by a natural person subject to, and in accordance with, the provisions of this Act and the terms and conditions of the licence, entitles the holder to carry on the business of a bookmaker —
  - (a) in person, or through the agency of a licensed employee, upon a race course if the person holds a permit to do so from the committee or other authority controlling the race course; and
  - (b) in person, or through the agency of a licensed employee, at a place, upon an occasion and in respect of an event authorized under section 5(2).

**11B. Bookmaker's licence — partnership**

- (1) For a partnership to be, or to continue to be, licensed as a bookmaker under this Act, the Board shall be satisfied —
- (a) if a member of the partnership is a body corporate, that the body corporate satisfies and continues to satisfy the matters in relation to which the Board shall be satisfied under section 11C(1)(a) to (e);
  - (b) if a member of the partnership is a body corporate, that a person who occupies a position of authority in the body corporate satisfies and continues to satisfy the matters referred to in section 11C(3)(a) to (g);
  - (c) that none of the members of the partnership is a member of another partnership that holds a bookmaker's licence;
  - (d) if the members of the partnership are all natural persons, that at least one member of the partnership has knowledge of the business of bookmaking and the obligations of bookmakers under this Act;
  - (e) that —
    - (i) none of the members of the partnership holds a bookmaker's licence; and
    - (ii) none of the members of the partnership is a person who holds a position of authority in a body corporate that holds a bookmaker's licence;
- and
- (f) that each member of the partnership who is a natural person is a fit and proper person and

that no circumstances make it undesirable to grant a licence to the partnership.

- (2) For the purpose of being satisfied as to the matters referred to in subsection (1)(f), the Board may take into account not only the member of the partnership but also the repute and background of persons suspected by the Board to be associated with the partnership or the members of the partnership who are natural persons.
- (3) The Board shall not grant a bookmaker's licence to a partnership if a member of the partnership is a natural person who —
  - (a) is under the age of 18 years; or
  - (b) is an undischarged bankrupt.
- (4) A natural person shall not become a member of a partnership that holds a bookmaker's licence unless that person has been approved by the Board to become a member of the partnership.  
Penalty: \$2 000.
- (5) When determining whether or not to approve a natural person to become a member of a partnership that holds a bookmaker's licence the Board shall be satisfied that the person is a fit and proper person and that —
  - (a) the person is not a member of another partnership that holds a bookmaker's licence;
  - (b) the person does not hold a bookmaker's licence;
  - (c) the person does not hold a position of authority in a body corporate that holds a bookmaker's licence;
  - (d) the person is not under the age of 18 years; and
  - (e) the person is not an undischarged bankrupt.

- (6) For the purpose of being satisfied that the person is a fit and proper person, the Board may take into account not only the person but also the repute and background of persons suspected by the Board to be associated with the person.
- (7) Subject to the provisions of this Act, a bookmaker's licence that is granted to a partnership, unless suspended or cancelled pursuant to a determination made administratively by the Board in the exercise of prescribed disciplinary powers, remains current until the partnership is dissolved or until the licence is surrendered.
- (8) No bookmaker's licence held by a partnership shall be transferable or pass to the personal representative of a deceased partner.
- (9) A partnership that holds a bookmaker's licence can only carry on the business of a bookmaker by means of a licensed manager or licensed employee.
- (10) A bookmaker's licence held by a partnership subject to, and in accordance with, the provisions of this Act and the terms and conditions of the licence, entitles the partnership to carry on the business of a bookmaker —
  - (a) upon a race course if the partnership holds a permit to do so from the committee or other authority controlling the race course; or
  - (b) at a place, upon an occasion and in respect of an event authorized under section 5(2).
- (11) Each person who is a member of a partnership that holds a bookmaker's licence shall ensure that the conduct of the business as a bookmaker by the partnership is not carried on personally otherwise than —
  - (a) by a licensed manager; or

- (b) by a licensed employee appointed to act as a licensed manager under subsection (12).

Penalty: \$5 000.

- (12) If a licensee that is a partnership does not have a licensed manager, the licensee may appoint a licensed employee to act as the licensed manager and to carry on the business of the licensee as a bookmaker for a period of not more than 28 days or such longer period as the Board approves.

- (13) If a person ceases to be the licensed manager of a licensee that is a partnership, the person shall inform the Board in writing within 7 days of so ceasing.

Penalty: \$2 000.

- (14) If a person ceases to be the licensed manager of a licensee that is a partnership, each person who is a member of the partnership shall ensure that a new licensed manager is appointed within 28 days of the previous licensed manager ceasing to be the manager or within such longer period as the Board has approved.

Penalty: \$5 000.

**11C. Bookmaker's licences — body corporate**

- (1) For a body corporate to be, or to continue to be, licensed as a bookmaker under this Act, the Board —
  - (a) shall be satisfied that the requirements set out in Schedule 3 are complied with in respect of that body corporate;
  - (b) shall be satisfied that none of the persons holding a position of authority in the body corporate —
    - (i) holds a bookmaker's licence;



- (ii) is a member of a partnership that holds a bookmaker's licence;
  - (iii) is a person who holds a position of authority in another body corporate that holds a bookmaker's licence;
  - (iv) is under the age of 18 years; and
  - (v) is an undischarged bankrupt;
- (c) shall be satisfied that each person who occupies a position of authority in the body corporate has been approved by the Board to occupy that position;
- (d) shall be satisfied that at least one director of the body corporate has knowledge of the business of bookmaking and the obligations of bookmakers under this Act; and
- (e) shall be satisfied that no circumstances make it undesirable to grant a licence to the body corporate.
- (2) A person shall not occupy a position of authority in a body corporate that holds a bookmaker's licence unless that person has been approved by the Board to occupy that position.  
Penalty: \$2 000.
- (3) When determining whether or not to approve a person who occupies or seeks to occupy a position of authority in a body corporate that has applied for or holds a licence the Board —
- (a) shall be satisfied that the person has lodged a security under section 11E(2), if required to do so by the Board;
  - (b) shall be satisfied that the person does not hold a bookmaker's licence;

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- (c) shall be satisfied that the person is not a member of a partnership that holds a bookmaker's licence;
  - (d) shall be satisfied that the person does not hold a position of authority in another body corporate that holds a bookmaker's licence;
  - (e) shall be satisfied that the person is not under the age of 18 years;
  - (f) shall be satisfied that the person is not an undischarged bankrupt;
  - (g) shall be satisfied that the person is a fit and proper person and that no circumstances make it undesirable to approve the person; and
  - (h) may take into account not only the person but also the repute and background of persons suspected by the Board to be associated with the person.
- (4) Subject to the provisions of this Act, a bookmaker's licence that is granted to a body corporate, unless the licence is suspended or cancelled pursuant to a determination made administratively by the Board in the exercise of prescribed disciplinary powers, remains current until the body corporate is dissolved or until the licence is surrendered.
- (5) No licence held by a body corporate shall be transferable.
- (6) A body corporate that holds a bookmaker's licence can only carry on the business of a bookmaker by means of a licensed manager or a licensed employee.
- (7) A bookmaker's licence held by a body corporate subject to, and in accordance with, the provisions of this Act and the terms and conditions of the licence,

entitles the body corporate to carry on the business of a bookmaker —

- (a) upon a race course if the body corporate holds a permit to do so from the committee or other authority controlling the race course; or
  - (b) at a place, upon an occasion and in respect of an event authorized under section 5(2).
- (8) The conduct of the business of a licensee that is a body corporate as a bookmaker by a licensed manager or through the agency of a licensed employee does not relieve the licensee of responsibility for ensuring that the business is conducted in accordance with this Act.
- (9) The licensee shall ensure that the conduct of the business as a bookmaker by the licensee is not carried on otherwise than personally —
- (a) by a licensed manager; or
  - (b) by a licensed employee appointed to act as a licensed manager under subsection (11).

Penalty: \$5 000.

- (10) The business of a bookmaker that is carried on under a licence held by a body corporate may be carried on through the agency of a licensed employee.
- (11) If a licensee that is a body corporate does not have a licensed manager, the licensee may appoint a licensed employee to act as the licensed manager and to carry on the business of the licensee as a bookmaker for a period of not more than 28 days or such longer period as the Board approves.
- (12) If a person ceases to be the licensed manager of a body corporate, the person shall inform the Board in writing within 7 days of so ceasing.

Penalty: \$2 000.

- (13) If a person ceases to be the licensed manager of a body corporate, the licensee shall appoint a new licensed manager within 28 days of the previous licensed manager ceasing to be the manager or within such longer period as the Board has approved.

Penalty: \$5 000.

**11D. Licences — manager or employee**

- (1) When determining whether or not to approve an application under section 11 for a bookmaker's manager licence or a bookmaker's employee licence, the Board —
- (a) in the case of an applicant for a bookmaker's manager licence, shall be satisfied that the applicant has knowledge of the business of bookmaking and the obligations of bookmakers under this Act;
  - (b) shall be satisfied that the applicant is a fit and proper person and that no circumstances make it undesirable to grant a licence to that person; and
  - (c) may take into account not only the applicant but also the repute and background of persons suspected by the Board to be associated with the applicant.
- (2) The Board shall not grant a bookmaker's manager licence or a bookmaker's employee licence to a body corporate or a partnership.
- (3) Subject to the provisions of this Act a bookmaker's manager licence or a bookmaker's employee licence, unless suspended or cancelled pursuant to a determination made administratively by the Board in the exercise of prescribed disciplinary powers, remains current for a period of 5 years or until surrendered.

- (4) A bookmaker's manager licence or a bookmaker's employee licence shall not be transferable or pass to the personal representative of a deceased licensee or be, or be capable of being treated as, an asset in or the subject of any partnership.
- (5) A bookmaker's manager licence entitles the holder, subject to, and in accordance with, the provisions of this Act and the terms and conditions of the licence, to undertake employment with any bookmaker that is a body corporate or a partnership (but not with more than one bookmaker at any one time) and in that capacity —
  - (a) to carry on the business of the body corporate or partnership as a bookmaker;
  - (b) upon a race course, if with the permission of the committee or other controlling authority of that race course to make bets, write betting tickets, and carry out the activities of a bookmaker's clerk in relation to the business of a bookmaker; and
  - (c) to carry out such other functions under this Act as the Board may, in writing from time to time, authorize.
- (6) A bookmaker's employee licence entitles the holder, subject to, and in accordance with, the provisions of this Act and the terms and conditions of the licence, to undertake employment with any bookmaker and in that capacity —
  - (a) upon a race course, if with the permission of the committee or other controlling authority of that race course —
    - (i) to make bets, write betting tickets, and carry out the activities of a bookmaker's clerk in relation to the business of a bookmaker; or

- (ii) to act as agent of a bookmaker or substitute for a bookmaker who is a natural person named in that permission;
  - and
  - (b) to carry out such other functions under this Act as the Board may, in writing from time to time, authorize.
- (7) Where a licensed manager or licensed employee of a bookmaker carries on the business, or any aspect of the business, of that bookmaker —
- (a) the bookmaker —
    - (i) is responsible for all actions of the manager or employee relating to the business, and for all betting tickets written; and
    - (ii) in the case of a bookmaker who is a natural person, shall be present at or in close proximity to the stand or other approved area where bets are made or tickets written by the employee unless that employee is authorized under this Act to carry on the business as an agent of or substitute for the bookmaker;
  - and
  - (b) the manager or employee shall not, otherwise than in accordance with this Act, make bets or write betting tickets as if the manager or employee were a bookmaker.
- (8) Where a licensed manager or a licensed employee of a bookmaker that is a partnership or body corporate carries on the business, or any aspect of the business, of that bookmaker, the licensed manager or the

licensed employee shall be present at or in close proximity to the stand or other approved area where bets are made or tickets written by the manager or employee unless the manager or employee is authorized under this Act to carry on the business as an agent of or substitute for the bookmaker.

**11E. Security**

- (1) An applicant for a bookmaker's licence shall, on being required to do so by the Board, lodge with the Board —
  - (a) a security for the prescribed amount, which shall (notwithstanding that it relates to gaming or wagering) be the liquidated damages that are recoverable in full as a debt due to the Board unless every condition upon which the security is defeasible is proved to have been performed, in the form of a bond approved by the Board, and shall be —
    - (i) accompanied by cash to be held by the Treasurer; or
    - (ii) entered into by an insurance company, ADI, or person acceptable to the Board,as security for the due observance by the bookmaker, a licensed manager of the bookmaker and a licensed employee of the bookmaker of the provisions of this Act and the terms and conditions of any licence issued under this Act to that bookmaker or such a manager or an employee; and
  - (b) a statement of the assets and liabilities of the applicant verified in such manner as the Board may require.

- (2) One or more directors of a body corporate that is an applicant for or holds a bookmaker's licence shall, on being required to do so by the Board, lodge with the Board a security for the prescribed amount, which shall (notwithstanding that it relates to gaming or wagering) be the liquidated damages that are recoverable in full as a debt due to the Board unless every condition upon which the security is defeasible is proved to have been performed, in the form of a bond approved by the Board, and shall be —
- (a) accompanied by cash to be held by the Treasurer; or
  - (b) entered into by an insurance company, ADI, or person acceptable to the Board,

as security for the due observance by the body corporate and its licensed manager and a licensed employee of a body corporate of the provisions of this Act and the terms and conditions of any licence issued under this Act to that body corporate or such a manager or an employee.

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



should be reviewed, require a licensee to furnish —

- (i) a statement of assets and liabilities;
- (ii) further or other security; or
- (iii) both,

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

- (f) where a bond of a director of a body corporate is terminated, or if the Board otherwise determines that the security held should be reviewed, require the director to furnish further or other security and if the director fails to do so within the time fixed by the Board the operation of the body corporate's licence may be suspended until the director has complied to the satisfaction of the Board; and
  - (g) deduct from any sum recovered by the Board under a security the costs and expenses of that recovery.
- (4) After deduction of the costs and expenses authorized by subsection (3)(g), the balance of any sum recovered by the Board under a security of a licensee or a security of a director of a body corporate that is a bookmaker shall be applied —
- (a) firstly, in discharging any portion of any bookmakers' annual licence fee or bookmakers' betting levy due under this Act, and any other tax, duty, fines or penalties payable under any written law by the bookmaker;
  - (b) secondly, in payment or rateably in payment of what the Board decides are the betting debts of the bookmaker; and

- (c) if there is any sum then remaining, in repayment to the surety, bookmaker or director from which or whom the sum was recovered.
- (5) Before a security lodged with the Board is discharged the Board may require a licensee, or former licensee, in respect of whose licence the security was lodged to produce at the office of the Board all records relating to the conduct of business under that licence, or such of those records as the Board specifies in writing, for inspection by the Board, and a person who contravenes any such requirement commits an offence.  
Penalty: \$5 000.
- (6) In subsection (5), a reference to a licensee includes —
  - (a) if the licensee is a body corporate, a reference to a person who occupies or occupied a position of authority in the body corporate; and
  - (b) if the licensee is a partnership, a reference to a member or former member of the partnership,

and a reference to a licence is a reference to the licence of the body corporate or the partnership, as the case requires.

**11F. Notification of Board in relation to licensed manager**

- (1) If a person is appointed to be or to act as a licensed manager of a bookmaker, the bookmaker shall advise the Board within 7 days of the person so being appointed.
- (2) If a person ceases to be or to act as the licensed manager of a bookmaker, the bookmaker shall advise the Board within 7 days of the person so ceasing to be or to act as its licensed manager.

Penalty applicable to subsections (1) and (2): \$1 000.

**11G. Offences**

- (1) A person who in, or in relation to —
- (a) any application or matter to be determined by the Board, or by a steward in charge of a race meeting or steward or other person under section 12A; or
  - (b) any —
    - (i) statement of assets or liabilities;
    - (ii) notice or annual return;
    - (iii) return or other record; or
    - (iv) thing,required, made, maintained, kept, delivered, furnished or produced under or for the purposes of this Act,

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

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

- (2) A person who, by an act intended to falsify or destroy the record, alters or destroys any record to which subsection (1) relates commits an offence.
- Penalty: \$5 000, or imprisonment for one year, or both.
- (3) A person who, otherwise than in the course of a duty under this Act, makes a record of, or divulges or communicates to any person, information coming to the knowledge of that person by reason of —
- (a) a report to be made or made to the Board by the Commissioner of Police under this Act; or

- (b) this Act, in the course of the administration of this Act,

commits an offence.

Penalty: \$5 000.

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

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

commits an offence.

Penalty: \$5 000.

- (5) Without limiting the matters which a court may take into consideration when passing sentence in respect of an offence committed under subsection (4), the court may take into consideration when so passing sentence any interstate offence of which the defendant has previously been convicted.

- (6) In subsection (5) —

**“interstate offence”** means offence under the law of another State or of a Territory, which offence is declared by the regulations to be an offence that corresponds to an offence under subsection (4).

**11H. Liability of persons who occupy a position of authority in a body corporate**

- (1) If a body corporate commits an offence against this Act, and it is proved that —
  - (a) the offence was committed with the consent or connivance of a person who occupies a position of authority in the body corporate; or
  - (b) the person failed to exercise such due diligence to prevent the commission of the offence as ought to have been exercised having regard to the nature of the person's functions and to all other circumstances,the person commits the same offence.
- (2) A person may be proceeded against and convicted of an offence against this Act by virtue of subsection (1) whether or not the body corporate has been proceeded against and convicted of the offence.

**11I. Liability of natural person, partners, bodies corporate and officers**

- (1) If an employee of a bookmaker who is a natural person commits an offence against this Act related to the business of the bookmaker, the bookmaker is to be treated as having committed an offence and is liable to the penalty prescribed for the offence committed by the employee.
- (2) If a manager, an employee or an agent of a bookmaker that is a partnership or a body corporate commits an offence against this Act related to the business of the partnership or body corporate as a bookmaker —
  - (a) each of the partners; or

- (b) the body corporate,  
as the case may be, is to be treated as having committed an offence and is liable to the penalty prescribed for the offence committed by the manager, employee or agent of the partnership or body corporate.
- (3) If under subsection (2) a body corporate is treated as having committed an offence, each person who occupies a position of authority in the body corporate is to be treated as having committed the offence and is liable to the penalty prescribed for the offence committed by the manager, employee or agent of the body corporate, unless the person proves that —
  - (a) the offence was committed without the person's consent or connivance; and
  - (b) the person exercised all such due diligence to prevent the commission of the offence as ought to have been exercised having regard to the nature of the person's functions and to all the circumstances.
- (4) If an employee of a bookmaker that is a partnership or a body corporate commits an offence against this Act related to the business of the bookmaker, the licensed manager of the bookmaker is to be treated as having committed an offence and is liable to the penalty prescribed for the offence committed by the employee.

”.

**8. Section 12 amended**

- (1) Section 12(1) is amended by inserting after “the employee” —  
“ , licensed manager ”.
- (2) Section 12(2) is amended by deleting “section 11” and inserting instead —  
“ section 11A, 11B, 11C or 11D ”.

- (3) Section 12(3)(a) and the word “or” after it are deleted and the following paragraph is inserted instead —

“

- (a) except as regards betting on sporting events as authorized and approved under section 4B —
  - (i) during any day on which a race meeting is conducted at the race course; or
  - (ii) on other days, at times approved by both the Board and the committee or other authority controlling the race course;

or

”.

- (4) After section 12(3) the following subsection is inserted —

“

- (3a) No bookmaker shall bet or carry on business as such on a race course under subsection (3) unless a steward or other person appointed by the committee or other authority controlling the race course is present at the race course while that betting or business is carried on to supervise the conduct of the betting or business.

”.

- (5) Section 12(4)(a) is amended by deleting “permit a bookmaker to use a licensed employee, being an employee” and inserting instead —

“

permit a bookmaker who is a natural person to use a licensed manager or a licensed employee, being a manager or employee

”.

(6) After section 12(4) the following subsection is inserted —

“

- (4a) The committee or other authority controlling a race course may —
- (a) permit a licensed manager who is carrying on the business of a bookmaker that is a partnership or a body corporate to use a licensed employee, being an employee specifically nominated to and approved by that authority for that purpose —
    - (i) to act as a licensed manager of the partnership or body corporate where the manager is absent on account of sickness, leave or other circumstances acceptable to that authority;
    - (ii) as the agent of the partnership or body corporate to operate a second stand, or in another approved area, on behalf of that partnership or body corporate at that race course, either generally or on a particular occasion, whether or not subparagraph (i) applies;
    - (iii) as the agent of the partnership or body corporate, to operate on behalf of that partnership or body corporate at that race course notwithstanding the absence of the licensed manager, in the event of there otherwise being, in the opinion of that authority, insufficient bookmakers to meet public demand; or
    - (iv) as the agent of the partnership or body corporate, in circumstances approved by the Board;

and



- (b) in respect of all or any of the types of betting authorized by the licence, permit the carrying on of business and the making of bets at that race course by a licensed manager of the bookmaker.

”.

(7) Section 12(5) is amended as follows:

- (a) in paragraph (c)(iii) by deleting “in the prescribed form” and inserting instead —

“ in a form approved by the Board ”;

- (b) in paragraph (d) by inserting after “on the part of a bookmaker” —

“ , licensed manager ”;

- (c) after paragraph (d) by deleting the full stop and inserting the following —

“

;

- (e) appoint a steward or other person to supervise a bookmaker betting or carrying on business as such on the race course under subsection (3).

”.

## **9. Section 12A amended**

- (1) Section 12A(1) is amended by deleting “in the prescribed form” and inserting instead —

“ in a form approved by the Board ”.

- (2) After section 12A(1) the following subsection is inserted —

“

- (1a) A bookmaker may apply in a form approved by the Board to a steward or other person appointed under section 12(5)(e) for a temporary bookmaker’s employee’s licence to be granted to a person nominated

by the bookmaker in respect of a day on which a bookmaker may bet or carry on business as such on the race course under section 12(3).

”.

- (3) Section 12A(2) is amended as follows:
- (a) by inserting after “A steward” —  
“ or other person ”;
  - (b) by inserting after “subsection (1)” —  
“ or (1a) ”;
  - (c) in paragraph (a), by inserting after “if that steward” —  
“ or other person ”;
  - (d) in paragraph (a)(i), by deleting “his or her” and inserting instead —  
“ the applicant’s ”;
  - (e) in paragraph (a)(i), by inserting after “race meeting” —  
“ or race course ”;
  - (f) in paragraph (a), by inserting after “as that steward” —  
“ or other person ”;
  - (g) by inserting after “that steward” in both places where those words occur —  
“ or other person ”;
  - (h) by deleting “in the prescribed form” and inserting instead —  
“ in a form approved by the Board ”.
- (4) Section 12A(3) is amended by inserting after “a steward” —  
“ or other person ”.
- (5) Section 12A(4) is amended as follows:
- (a) by inserting after “A steward” —  
“ or other person ”;

- (b) by inserting after “the steward” —  
“ or other person ”.
- (6) Section 12A(5)(a) is amended by deleting “this section” and inserting instead —  
“ subsection (1) ”.
- (7) After section 12A(5) the following subsection is inserted —  
“
  - (5a) A steward or other person —
    - (a) who has granted one or more temporary licences under subsection (1a); and
    - (b) who does not, within 3 days of the day in respect of which the temporary licence was granted, communicate to the Board such details of the applications for those temporary licences, and of the persons to whom those temporary licences have been granted, as are prescribed,  
  
commits an offence.”.
- (8) Section 12A(8) is amended in the definition of “temporary licence” by inserting after “subsection (1)” —  
“ or (1a) ”.

**10. Section 14 amended**

- (1) Section 14(1) is amended in the definition of “turnover” by deleting “his or her” in both places where the words occur and inserting instead —  
“ the bookmaker’s ”.
- (2) Section 14(2)(a) is amended by deleting “his or her” and inserting instead —  
“ the bookmaker’s ”.

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- (3) Section 14(3) is amended by deleting “his or her” and inserting instead —

“ the holder’s ”.

**11. Section 15 amended**

- (1) Section 15(1) is amended as follows:

- (a) by deleting “conducting a race meeting”;
- (b) by deleting “(whether in person, or as the agent of or substitute for a bookmaker)” and inserting instead —

“

(whether in person, as the agent of or substitute for a bookmaker, or as a licensed manager of a bookmaker)

”;

- (c) by deleting “at the meeting” and inserting instead —

“ at the race course controlled by the club ”.

- (2) Section 15(2) is amended as follows:

- (a) in paragraph (a) by deleting “meeting” and inserting instead —

“ race course ”;

- (b) by inserting after “the bookmaker in person,” —

“

if a natural person, the licensed manager of a bookmaker

”.

- (3) Section 15(3) is amended as follows:

- (a) after paragraph (b), by deleting “and”;
- (b) after paragraph (b), by inserting the following —

“

- (ba) each race held or to be held otherwise than at that race course and on a day other than a day on

which a race meeting is conducted at the race course, at the conclusion of the race meeting in respect of which the bet was made; and

”;

(c) by inserting after “the bookmaker in person,” —

“

if a natural person, the licensed manager of a bookmaker

”.

(4) Section 15(4) is amended as follows:

(a) by inserting after “The bookmaker in person,” —

“

if a natural person, the licensed manager of a bookmaker

”;

(b) by deleting “within 3 days of the race meeting if the race meeting is one on which agencies of the Totalisator Agency Board have been open for the acceptance of investments thereon and within 7 days otherwise” and inserting instead —

“ within 7 days of the race meeting ”;

(c) by deleting “in respect of a sporting event”;

(d) by inserting after “section 4B(2)” —

“ or 12(3)(a)(ii) ”.

## **12. Section 16 amended**

(1) Section 16(1) is amended by deleting “(whether in person or as the agent of or substitute for the bookmaker)” and inserting instead —

“

(whether in person, as the agent of or substitute for the bookmaker, or as a licensed manager of a bookmaker)

”.

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- (2) Section 16(2) is amended by inserting after “acting for the bookmaker,” —  
“ or the licensed manager of a bookmaker, ”.
- (3) Section 16(3)(b) is amended by inserting after “acting for the bookmaker,” —  
“ or the licensed manager of a bookmaker, ”.

**13. Section 16A amended**

- (1) Section 16A(1) is amended by inserting after “A bookmaker” —  
“  
or, in the case of a bookmaker which is a partnership or body corporate, the licensed manager of the bookmaker ”.
- (2) Section 16A(2) is amended by inserting after “any licensed employee” —  
“ or licensed manager ”.

**14. Section 17 amended**

Section 17 is amended by inserting after “who is a bookmaker” —  
“ , the licensed manager of the bookmaker, ”.

**15. Section 17B amended**

- (1) Section 17B(5) is amended by inserting after “The secretary” —  
“ or chief executive officer ”.
- (2) Section 17B(7)(b) is amended by inserting after “the secretary” —  
“ or chief executive officer ”.

**16. Section 18 amended**

Section 18 is amended by inserting after “made by the bookmaker” —

“ , the licensed manager of the bookmaker, ”.

**17. Section 18A amended**

Section 18A(1) is amended as follows:

- (a) by deleting “in respect of a sporting event”;
- (b) by inserting after “section 4B(2)” —  
“ or 12(3)(a)(ii) ”.

**18. Section 18B amended**

Section 18B(5) is amended by deleting “who”.

**19. Section 20 amended**

(1) Section 20(1) is amended as follows:

- (a) in paragraph (a), by inserting after “require a bookmaker” —  
“ , the licensed manager of a bookmaker, ”;
- (b) in paragraph (a), by deleting “his or her” and inserting instead —  
“ that person’s ”.

(2) Section 20(2) is amended as follows:

- (a) by deleting “secretary of the Western Australian Greyhound Racing Authority” and inserting instead —

“

chief executive officer of the Western Australian  
Greyhound Racing Authority

”;

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(b) in paragraph (a), by inserting after “require a bookmaker” —

“ , the licensed manager of a bookmaker, ”;

(c) in paragraph (a), by deleting “his or her” and inserting instead —

“ that person’s ”.

(3) Section 20(6) is amended by inserting after “A bookmaker” —

“ , licensed manager ”.

**20. Section 21 amended**

Section 21(1) is amended by inserting after “A bookmaker,” —

“ the licensed manager of a bookmaker ”.

**21. Section 22 amended**

Section 22(1)(b) is amended by inserting after “the employee” —

“ or the licensed manager ”.

**22. Section 27 amended**

Section 27 is amended as follows:

(a) after paragraph (b)(i) by deleting “or”;

(b) after paragraph (b)(ii) by inserting —

“

or

(iii) a bookmaker is permitted by section 12(3)(a) to bet or carry on business as such at the race course;

”.



**23. Section 28A amended**

Section 28A(1) is amended by deleting “of the Second Schedule” and inserting instead —

“ in Schedule 2 ”.

**24. Section 31 amended**

Section 31(1) is amended as follows:

(a) in paragraph (a)(i), by inserting after “licensed employee” —

“ or licensed manager ”;

(b) in paragraph (a)(ii), by deleting “an employee” and inserting instead —

“ a person ”;

(c) in paragraph (a)(ii), by deleting “that employee” and inserting instead —

“ that person ”;

(d) in paragraph (b), by inserting before “fail personally” —

“

in the case of a bookmaker who is a natural person,

”.

**25. Section 31A amended**

Section 31A(2) is amended as follows:

(a) in paragraph (d)(iv), by deleting “his” and inserting instead —

“ that person’s ”;

(b) in paragraph (g), by inserting after “an act, admission or statement of” —

“ a licensed manager, ”.

**26. Section 32A amended**

(1) Section 32A(1) is amended as follows:

- (a) by deleting “may require” and inserting instead —  
“ shall give ”;
- (b) by inserting after “under this Act” —  
“ an opportunity ”;
- (c) by inserting after “should not be exercised” —  
“ in relation to that holder ”.

(2) Section 32A(2) is amended as follows:

(a) by inserting after “Where the Board” —

“

, having given the person referred to in subsection (1)  
an opportunity to show cause,

”;

(b) in paragraph (b)(ii), by inserting after “licensed  
employee” —

“ or licensed manager ”;

(c) after paragraph (c), by deleting “or”;

(d) in paragraph (d) by deleting the comma and inserting  
instead —

“

;

(e) in the case of a partnership, does not comply  
with any one or more of the matters referred to  
in section 11B(1) that must be satisfied if a  
partnership is to continue to be eligible to be  
licensed as a bookmaker; or

(f) in the case of a body corporate, does not  
comply with any one or more of the matters  
referred to in section 11C(1) that must be

satisfied if a body corporate is to continue to be eligible to be licensed as a bookmaker,

”.

- (3) Section 32A(6)(b) is amended by deleting “11(12) and (13) apply” and inserting instead —

“ 11E(3) and (4) apply ”.

**27. Section 33 amended**

Section 33(1) is amended as follows:

- (a) by inserting the following subparagraph after paragraph (b)(ii) —

“

(ia) the licensing of a manager of a bookmaker that is a body corporate or a partnership;

”;

- (b) in paragraph (b)(viii), by deleting “and employees” and inserting instead —

“ , employees and licensed managers ”.

**28. Second Schedule heading replaced**

The heading to the Second Schedule is deleted and the following heading is inserted instead —

“

**Schedule 2 — Form of warrant**

[s. 28A]

”.

**29. Schedule 3 inserted**

After Schedule 2 the following Schedule is inserted —

“

**Schedule 3 — Requirements for licensing of a body  
corporate and continuation of the licence of a  
body corporate**

[s. 11C(1)(a)]

1. The body corporate is to have a place of business or carry on business within the State.
2. Proper and adequate provision is to be made for disclosure to the Board of the affairs of the body corporate, on request in writing by the Board to any director of the body corporate.
3. The memorandum and articles of association of the body corporate are to be acceptable to the Board and contain a provision that the Board be notified of any intention to amend the memorandum or articles and be furnished with a copy of any proposed resolution or other form of proposal to give effect to that intention.
4. The body corporate is not to trade under a name that has not been approved by the Board.
5. The body corporate is not to be a trustee of a discretionary trust.

”.

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**Part 3 — Totalisator Agency Board Betting  
Act 1960 amended**

**30. The Act amended in this Part**

The amendments in this Part are to the *Totalisator Agency Board Betting Act 1960*\*.

[\* *Reprinted as at 2 December 1996.*

*For subsequent amendments see 2000 Index to Legislation of Western Australia, Table 1, p. 451, and Act No. 10 of 2001.]*

**31. Section 13 amended**

Section 13(1) is amended by inserting after “then to any member” —

“ or the manager, secretary or other officer of the TAB ”.

**32. Section 56B inserted**

After section 56A the following section is inserted —

“

**56B. Immunity from certain claims**

(1) No claim lies against the TAB, a member, or an officer, employee or agent of the TAB in relation to a bet (whether made before or after the commencement of this section) that has been accepted by or on behalf of the TAB otherwise than in accordance with a written law.

(2) Subsection (1) does not apply to a claim —

(a) made before 6 February 1999; or

(b) made by the TAB against an agent of the TAB.

”.

**33. Validation of acts of manager**

(1) In this section —

**“Board”** means the governing body of the TAB provided for in section 6 of the *Totalisator Agency Board Betting Act 1960*;

**“manager”** means the person appointed a manager under section 16(1) of the *Totalisator Agency Board Betting Act 1960*;

**“relevant period”** means the period commencing on the day on which Part 2 of the *Acts Amendment (Racing and Betting Legislation) Act 1995* came into operation and ending on the day on which section 31 of the *Betting Legislation Amendment Act 2002* comes into operation;

**“the TAB”** has the same meaning as in section 3 of the *Totalisator Agency Board Betting Act 1960*.

(2) Anything done during the relevant period by the manager of the TAB purportedly under a delegation of a function by the Board to the manager under section 13(1) of the *Totalisator Agency Board Betting Act 1960* that would have been validly done had section 31 of the *Betting Legislation Amendment Act 2002* come into operation before the relevant period is to be regarded as having been validly done and to have always been done effectually in all respects.

