

WESTERN AUSTRALIA

**BETTING CONTROL AMENDMENT
ACT 1998**

No. 17 of 1998

**AN ACT to amend the *Betting Control Act 1954* and for
related purposes.**

[Assented to 15 June 1998.]

The Parliament of Western Australia enacts as follows:

Short title

1. This Act may be cited as the *Betting Control Amendment Act 1998*.

Commencement

2. The provisions of this Act come into operation on such day as is, or days as are respectively, fixed by proclamation.

Principal Act

3. In this Act the *Betting Control Act 1954** is referred to as the principal Act.

[* *Reprinted as at 20 February 1997.*
For subsequent amendments see Act No. 57 of 1997.]

Section 4 amended

4. (1) Section 4 (1) of the principal Act is amended by inserting in their appropriate alphabetical positions the following definitions —

“

“**designated sporting event**” means sporting event belonging to such class of sporting events (excluding races but including foot-races) as is approved under subsection (1a) for the purposes of section 4A;

“**permittee**” means holder of a permit granted under section 4A;

“**registered place**” means place registered under section 4A (4) in respect of designated sporting events of the relevant class;

”.

(2) Section 4 of the principal Act is amended by inserting after subsection (1) the following subsection —

“

(1a) The Board may by notice published in the *Gazette* —

- (a) approve a class of sporting events (excluding races but including foot-races) for the purposes of section 4A; and
- (b) amend or revoke such an approval.

”.

Section 4A repealed and a section substituted, and transitional

5. (1) Section 4A of the principal Act is repealed and the following section is substituted —

“

Application of this Act to certain sporting events other than races

4A. (1) This Act applies to and in relation to a designated sporting event conducted by a permittee at a registered place as though —

- (a) the designated sporting event were a race;
- (b) the permittee were a racing club; and
- (c) the registered place were a race course.

(2) A person who desires to conduct a designated sporting event at a registered place shall —

- (a) apply to the Board in the prescribed form for the grant of a permit; and

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(b) indicate in that application the place at which the designated sporting event is to be conducted under the permit by that person.

(3) An application under subsection (2) shall be accompanied by such information as is prescribed, and the applicant shall furnish the Board with such additional information as the Board directs.

(4) The Board may —

- (a) grant a permit applied for under subsection (2) and, if the place at which the designated sporting event is to be conducted under the permit by the applicant is not already registered under this subsection in respect of designated sporting events of the class to which the designated sporting event belongs, register that place in respect of designated sporting events of that class;
- (b) refuse to grant a permit applied for under subsection (2); or
- (c) defer consideration of an application under subsection (2),

as the Board thinks fit.

(5) The Board may, with respect to a permit, impose conditions, restrictions and prohibitions in relation to the permittee or the registered place or both.

(6) A permittee or other person shall not contravene any condition, restriction or prohibition imposed under subsection (5).

Penalty: \$500.

(7) The Board may, whether or not a person is convicted of an offence under subsection (6), cancel or suspend a permit if the Board is satisfied that any condition, restriction or prohibition imposed under subsection (5) with respect to the permit has not been complied with.

(8) In this section —

“**permit**” means permit granted under subsection (4).

”.

(2) An approval which was in force under section 4A of the principal Act immediately before the commencement of this section continues in force, subject to subsection (3), for the remainder of the period for which it would, but for this section, have continued in force, and the principal Act as in force immediately before that commencement continues to apply to and in relation to that approval accordingly.

(3) An approval continued in force by subsection (2) cannot be renewed, but may be cancelled or suspended under section 4A (8) of the principal Act as in force immediately before the commencement of this section during the period referred to in subsection (2).

Section 4B amended

6. Section 4B of the principal Act is amended —

(a) in subsection (1) by deleting “Minister” and substituting the following —

“ Board ”;

(b) in subsection (2) by deleting “Minister may, upon application by the Board,” and substituting the following —

“ Board may ”; and

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(c) in subsection (3) —

(i) by deleting “take effect on publication by notice” and substituting the following —

“ as soon as is practicable after it has been given be notified ”;

and

(ii) by deleting “that notice” and substituting the following —

“ that approval ”.

Section 5 amended and transitional

7. (1) Section 5 (1a) is repealed and the following subsections are substituted —

“

(2) The Board may, if it is satisfied that adequate provision is made and maintained for the supervision of the proceedings at the premises in question and that all bets there made are brought to account, authorize, subject to such conditions, if any, as are specified in that authority —

(a) the settlement of bets; and

(b) the making of bets in relation to the practice known as “**the calling of the card**” on such occasions and events as are specified in that authority,

at such premises as are specified in that authority, and despite any written law to the contrary the activities so authorized are, when carried on in compliance with any such conditions, lawful.

(2a) The Board may, if —

- (a) it is no longer satisfied within the meaning of subsection (2) in respect of an authority given under that subsection; or
- (b) it is satisfied that any condition to which that authority is subject has not been complied with,

amend or cancel that authority.

(2b) The Board shall cause —

- (a) each authority given under subsection (2); and
- (b) each amendment or cancellation made under subsection (2a),

to be published in the *Gazette* as soon as is practicable after it is given or made.

”.

(2) An authority in force under section 5 (1a) of the principal Act immediately before the commencement of this section (“**the old authority**”) continues in force, subject to the principal Act as amended by this Act, as if —

- (a) the old authority were an authority given under section 5 (2) as inserted by this section (“**the new authority**”); and
- (b) the premises to which the old authority relates were specified in the new authority.

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Section 6A amended

8. Section 6A of the principal Act is amended —

(a) in subsection (1) (c) by inserting after “appointed under section” the following —

“ 6 ”; and

(b) in subsection (2) by deleting “and (d)” and substituting the following —

“ , (d) and (e), ”.

Section 6D amended

9. (1) Section 6D (1) of the principal Act is amended by deleting “of the Board should be exercised” and substituting the following —

“ or duty of the Board should be exercised or performed ”.

(2) Section 6D (2) of the principal Act is amended —

(a) by deleting “delegated by the Board shall be exercised” and substituting the following —

“
or duty delegated by the Board shall be exercised
or performed
”;

and

(b) by inserting after “exercised” where it occurs for the second, third and fourth times the following —

“ or performed ”.

(3) Section 6D (3) of the principal Act is amended by inserting after “exercise of a power” the following —

“ or performance of a duty ”.

Section 6G amended

10. Section 6G of the principal Act is amended —

(a) in subsection (1) (g) by inserting before “to cause to be paid” the following —

“ , subject to subsections (1a), (1b) and (1c), ”; and

(b) by inserting after subsection (1) the following subsections —

“
(1a) Moneys for the time being held by the Board in respect of payments of bookmakers’ betting levy made under section 15 in relation to betting of the kind referred to in sections 4A and 4B are to be credited to the account referred to in section 9 (2) until paid under subsection (1c).

(1b) The Board shall, at quarterly intervals, notify the Minister of the Crown responsible for sport and recreation of the amount of moneys referred to in subsection (1a).

(1c) The Board shall pay the moneys referred to in subsection (1a) —

- (a) to the persons or bodies of persons;
- (b) for the purposes; and
- (c) in the respective amounts,

directed in writing by the Minister of the Crown responsible for sport and recreation.

”.

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Section 9 amended

11. Section 9 (3) of the principal Act is repealed and the following subsection is substituted —

“ (3) There shall be credited to the Fund, subject to the payment —

- (a) into the Consolidated Fund in accordance with the scheme referred to in section 6G (1) (g); or
- (b) under section 6G (1c),

of any amount received by the Board in respect of bookmakers' betting levy, all moneys to which subsection (1) refers.

”.

Section 11 amended

12. (1) Section 11 (4) (c) of the principal Act is amended by deleting “section 5 (1a)” and substituting the following —

“ section 5 (2) ”.

(2) Section 11 (9) (a) of the principal Act is amended by inserting after “the Board” the following —

“ , or by a steward in charge of a race meeting under section 12A

”.

(3) Section 11 of the principal Act is amended by inserting after subsection (16) the following subsections —

“ (16a) Without limiting the matters which a court may take into consideration when passing sentence in respect of an offence committed under subsection (16), the court may

take into consideration when so passing sentence any interstate offence of which the defendant has previously been convicted.

(16b) In subsection (16a) —

“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 (16).

”.

Section 12A inserted

13. After section 12 of the principal Act the following section is inserted —

“

Temporary bookmakers’ employees’ licences

12A. (1) A bookmaker may apply in the prescribed form to a steward in charge of a race meeting for a temporary bookmaker’s employee’s licence to be granted to a person nominated by the bookmaker in respect of the day, or one of the days, of the race meeting.

(2) A steward to whom an application is made under subsection (1) may —

(a) if that steward is satisfied that the applicant —

(i) has no licensed employees, or insufficient licensed employees, to enable the applicant to conduct his or her business at the race meeting on the day in question; and

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- (ii) has taken all reasonable steps to obtain the services of a licensed employee or an additional licensed employee, but to no avail,

grant the temporary licence applied for, subject to such terms and conditions as that steward imposes on that temporary licence; or

- (b) refuse the application,

but may before doing so require the applicant to furnish to that steward such information additional to that provided in the prescribed form as appears to that steward to be necessary for the proper consideration of the application.

(3) In making a decision under subsection (2), a steward shall apply such principles as are from time to time communicated to racing clubs by the Board for the purposes of this section.

(4) A steward is not required to specify any reason for a refusal made by the steward under subsection (2) (b).

(5) A steward —

- (a) who has granted one or more temporary licences under this section in respect of a race meeting; and
- (b) who does not, within 3 days of the conclusion of the race meeting, 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.

(6) A temporary licence remains current until the conclusion of the day in respect of which it was granted.

(7) A person to whom a temporary licence is granted is deemed to be the holder of a bookmaker's employee's licence in relation to the day to which the temporary licence relates.

(8) In this section —

“**temporary licence**” means temporary bookmaker's employee's licence referred to in subsection (1).

”.

Section 15 amended

14. (1) Section 15 (3) (c) of the principal Act is amended by deleting “a notice published under section 4B (3)” and substituting the following —

“ an approval given under section 4B (2) ”.

(2) Section 15 (4) of the principal Act is amended by deleting “a notice published under section 4B (3)” and substituting the following —

“ an approval given under section 4B (2) ”.

(3) Section 15 (5) of the principal Act is amended by deleting paragraph (a) and substituting the following —

“

(a) shall retain, in respect of —

(i) any portion of that sum that relates to betting to which section 4A applies;

(ii) any portion of that sum that relates to betting to which section 4B applies; or

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- (iii) any portion of that sum that relates to betting other than betting referred to in subparagraphs (i) and (ii),

such percentage of that portion as is prescribed, and shall apply one-half of the total amount so retained towards increasing stakes, and apply the remaining half to such purposes as that racing club thinks fit; and

”.

Section 16 amended

15. (1) Section 16 (1) of the principal Act is amended by deleting “section 5 (1a)” and substituting the following —

“ section 5 (2) ”.

(2) Section 16 (3) of the principal Act is amended by deleting “the Board at such times” and substituting the following —

“ the relevant person within 7 days of the betting taking place or within such other time ”.

(3) Section 16 of the principal Act is amended by inserting after subsection (3) the following subsections —

“ (3a) Where a racing club receives a sum of bookmakers’ betting levy under subsection (3) the racing club —

(a) shall retain, in respect of —

- (i) any portion of that sum that relates to betting to which section 4A applies;
- (ii) any portion of that sum that relates to betting to which section 4B applies; or

- (iii) any portion of that sum that relates to betting other than betting referred to in subparagraphs (i) and (ii),

such percentage of that portion as is equal to the appropriate prescribed percentage referred to in section 15 (5) (a), and shall apply one-half of the total amount so retained towards increasing stakes, and apply the remaining half to such purposes as that racing club thinks fit; and

- (b) shall within such time of receiving that sum from the person as the Board appoints and is hereby authorized to appoint from time to time, either generally or for a particular case, remit in the manner required by section 18A (2) the balance of that sum to the Board and supply to the Board such particulars as the Board requires and is hereby authorized to require.

(3b) If a racing club to which subsection (3a) relates does not remit the balance of a sum of bookmakers' betting levy to the Board within the appointed time, the Board may, without prejudicing the liability of the racing club to penalty under this Act, sue the racing club in a court of competent jurisdiction for recovery of the amount of that balance as a debt due.

(3c) A racing club shall preserve and retain possession of returns and duplicates of records delivered to it under subsection (3) until the Board consents to destruction of the returns and duplicates.

(3d) In subsection (3) —

“the relevant person” means —

- (a) in relation to a race held within this State, the racing club conducting the race; or
- (b) in relation to a race held elsewhere than in this State, the Board.

”.

Section 17C amended

16. Section 17C of the principal Act is amended —

- (a) by deleting “foot-races” and substituting the following —
“ designated sporting events ”;
- (b) by deleting “an approved organization” and substituting the following —
“ a permittee ”;
- (c) by deleting “an approved place” and substituting the following —
“ a registered place ”;
- (d) by deleting “such an organization” in both places where it occurs and substituting in each case the following —
“ a permittee ”; and
- (e) by deleting “foot-race” and substituting the following —
“ designated sporting event ”.

Section 18A amended

17. Section 18A (1) of the principal Act is amended by deleting “a notice published under section 4B (3)” and substituting the following —

“ an approval given under section 4B (2) ”.

Section 20 amended

18. Section 20 (4) (b) of the principal Act is amended by deleting “section 5 (1a)” and substituting the following —

“ section 5 (2) ”.

Section 23 amended

19. Section 23 (1) (a) of the principal Act is amended by deleting “section 5 (1a)” and substituting the following —

“ section 5 (2) ”.

Section 24 amended

20. (1) Section 24 of the principal Act is amended by inserting after subsection (1) the following subsection —

“
 (1a) Without limiting the matters which a court may take into consideration when passing sentence in respect of an offence committed under subsection (1), the court may take into consideration when so passing sentence any interstate offence of which the defendant has previously been convicted.
”.

(2) Section 24 (2) of the principal Act is repealed and the following subsection is substituted —

“ (2) In this section —

“**bets**” includes —

- (a) negotiating bets;
- (b) receiving or paying money in connection with bets; and

(c) settling bets,

on or in connection with the result of any race or sporting event;

“**interstate offence**” means 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 subsection (1).

”.

Section 27 amended

21. Section 27 (ca) of the principal Act is amended by deleting “section 5 (1a)” and substituting the following —

“ section 5 (2) ”.

Section 30A amended

22. Section 30A (1) of the principal Act is repealed and the following subsection is substituted —

“

(1) An offence under this Act or the *Totalisator Agency Board Betting Act 1960* may be prosecuted by or on behalf of the Board.

”.

Section 31 amended

23. Section 31 (1) (b) (iii) of the principal Act is amended by inserting before “deliver to the bettor” the following —

“ , unless the regulations provide otherwise, ”.

Section 31A amended

- 24.** (1) Section 31A (2) of the principal Act is amended —
- (a) in paragraph (a) by deleting “the Commissioner or”;
 - (b) in paragraph (b) (i) by inserting after “authorized person” the following —
“ or permittee ”;
 - (c) in paragraph (d) (iii) by deleting “or condition” and substituting the following —
“ , condition, restriction or prohibition ”; and
 - (d) in paragraph (e) by deleting “, the Commissioner”.
- (2) Section 31A (3) of the principal Act is amended by deleting “The Commissioner, or an officer authorized by the Board or the Commissioner,” and substituting the following —
“ An officer authorized by the Board ”.

Section 33 amended

- 25.** (1) Section 33 (1) of the principal Act is amended by deleting the passage beginning with “for giving effect to” and ending with “may by the regulations — ” and substituting the following —
“
prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed for giving effect to the purposes of this Act, and, in particular, may by the regulations —
”.

(2) Section 33 (1) (b) of the principal Act is amended —

(a) in subparagraph (v) by deleting “Commissioner” and substituting the following —

“ Board ”; and

(b) by inserting after subparagraph (v) the following subparagraph —

“ (va) payments to the Board of, and amounts payable as, fees in respect of permits within the meaning of section 4A and applications for those permits; ”.

Section 36 amended

26. Section 36 (1) of the principal Act is amended by deleting “1 January 1991 and every fifth anniversary of that date” and substituting the following —

“ the day fixed, or the first of the days fixed, as the case requires, under section 2 of the *Betting Control Amendment Act 1998* ”.