

WESTERN AUSTRALIA

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**ACTS AMENDMENT (RACING AND  
BETTING LEGISLATION) ACT 1995**

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No. 63 of 1995

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**AN ACT to amend the *Totalisator Agency Board Betting Act 1960*, the *Betting Control Act 1954* and the *Bookmakers Betting Tax Act 1954*; to repeal the *Totalisator Duty Act 1905*; and for related purposes.**

[Assented to 27 December 1995.]

The Parliament of Western Australia enacts as follows:

**PART 1 — PRELIMINARY**

**Short title**

1. This Act may be cited as the *Acts Amendment (Racing and Betting Legislation) Act 1995*.

**Commencement**

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

**PART 2 — TOTALISATOR AGENCY BOARD  
BETTING ACT 1960**

***Division 1 — Preliminary***

**Principal Act**

3. In this Part the *Totalisator Agency Board Betting Act 1960\** is referred to as the principal Act.

[\* *Reprinted as at 27 September 1991.*

*For errata and subsequent amendments see 1994 Index to Legislation of Western Australia, Table 1, p. 215.]*

***Division 2 — The Board***

**Section 3 amended**

4. Section 3 of the principal Act is amended —

- (a) by deleting the definition of “chief executive officer”;  
and
- (b) by deleting the definition of “member” and  
substituting the definition following —

“

“**member**” means a person who is a  
member of the Board;

”.

**Section 6 amended**

5. Section 6 of the principal Act is amended —

- (a) by repealing subsection (1) and substituting the  
subsection following —

“

(1) The governing body of the TAB  
shall be the Board.

”.

- (b) by repealing subsection (2) and substituting the subsection following —

“

(2) On and after the coming into operation of section 5 of the *Acts Amendment (Racing and Betting Legislation) Act 1995* the Board shall comprise 7 members appointed by the Minister as people who have —

- (a) expertise relevant to the functions of the TAB and its operations, including expertise in management, finance, business or commerce; or
- (b) knowledge of, and experience in, the racing industry.

”;

- (c) by repealing subsection (3) and substituting the subsection following —

“

(3) The Minister is to appoint one of the members to be chairperson of the Board, and another to be the deputy of the chairperson to perform the functions of the chairperson when the chairperson is unable to do so or when the office of chairperson is vacant.

”;

and

- (d) in subsection (4) —

- (i) by deleting “, other than an *ex officio* member”;

- (ii) by deleting paragraph (a) and substituting the paragraph following —

“

(a) is an insolvent under administration, as that expression is defined in the Corporations Law;

”;

- (iii) by deleting paragraph (c) and substituting the paragraph following —

“

(c) is, in the opinion of the Minister, unable, through illness or absence from the State, to perform the functions of the office;

”;

- (iv) in paragraphs (e) and (f), by inserting, after “his” in each place where it appears, the following —

“ or her ”;

- (v) throughout, by deleting “Governor” in each place where it appears, and substituting the following —

“ Minister ”; and

- (vi) by adding the new subsections following —

“

(8) The Minister may approve a person to act as the deputy of a member, other than the chairperson, and at any meeting of the Board at which a member is not present the

deputy of that member may exercise the powers and perform the duties of the member.

(9) No act or omission of a person acting as a deputy under this section shall be questioned on the ground that the occasion for so acting had not arisen or had ceased.

(10) Schedule 1 has effect with respect to the constitution and proceedings of the Board and of its sub-committees.

”

**Section 7 repealed**

6. Section 7 of the principal Act is repealed.

**Section 8 repealed**

7. Section 8 of the principal Act is repealed.

**Section 10 repealed and new section substituted**

8. Section 10 of the principal Act is repealed and the following section is substituted —

“

**Remuneration etc.**

10. A member, and a person approved to act as the deputy of a member, shall be paid such remuneration and travelling or other allowances as are determined by the Minister, on the recommendation of the Minister for Public Sector Management, from time to time.

”

**Section 12 repealed**

9. Section 12 of the principal Act is repealed.

**Section 13 amended**

10. Section 13 of the principal Act is amended by deleting “or the *Betting Control Act 1954*”.

**Section 16 amended**

11. Section 16 (3) of the principal Act is amended by deleting “*Public Service Act 1978*” and substituting the following —

“ *Public Sector Management Act 1994* ”.

**Schedule 1 repealed and new Schedule substituted**

12. The principal Act is amended by repealing the first Schedule and substituting the Schedule following —

“

**SCHEDULE 1**

[Section 6 (10)]

**PROVISIONS APPLICABLE TO THE BOARD  
AND SUB-COMMITTEES**

**Tenure of office**

1. A member whose term of office expires due to the effluxion of time —

(a) is eligible to be reappointed; and

- (b) continues in office until he or she is reappointed or a successor comes into office (as the case may be).

**Disclosure of interests**

2. (1) A member of the Board or of a sub-committee of the Board who has a direct or indirect interest, other than as a member, in a matter before the Board or a sub-committee —

- (a) shall, as soon as the person is aware of the matter, disclose the nature of the interest to the Board or the sub-committee; and
- (b) shall not without the approval of the Board or the sub-committee take part in any deliberation or decision of the Board or sub-committee with respect to the matter.

Penalty: \$5 000.

(2) A disclosure made by a person under this clause shall be recorded in the minutes of the Board of the sub-committee.

**General procedure concerning meetings**

3. (1) The procedure for convening meetings of the Board or a sub-committee and the conduct of business at those meetings shall, subject to this Act, be as determined by the Board.

(2) The Board is required to cause accurate minutes of its meetings to be recorded and preserved.

(3) The first meeting of the Board shall be convened by the presiding member.

**Presiding member**

4. At a meeting of the Board —
- (a) the chairperson, or in his or her absence the deputy of the chairperson, shall preside; or
  - (b) in the absence of both of those members, a member elected by the members present shall preside.

**Quorum**

5. A quorum of the Board is 4 members.

**Voting**

6. (1) A decision of the majority of members at a meeting of the Board at which a quorum is present is the decision of the Board.

(2) If the votes of members present at a meeting and voting are equally divided the presiding member shall have a casting vote in addition to a deliberative vote.

**Sub-committees**

7. (1) The Board may from time to time appoint sub-committees of such members, or such members and other persons, as it thinks fit and may discharge or alter any sub-committee so appointed.

(2) Subject to the directions of the Board and to the terms of any delegation under section 13, each sub-committee may determine its own procedures.

(3) A sub-committee shall cause accurate minutes of its meetings to be recorded and preserved.

**Resolution may be passed without meeting**

8. A resolution in writing signed or assented to by each member by letter, telegram, telex or facsimile transmission is as valid and effectual as if it had been passed at a meeting of the Board.

”.

***Division 3 — Financial provisions*****Section 18 amended**

13. Section 18 of the principal Act is amended —

(a) in subsection (1), by inserting, after “this Act”, the following —

“ or under the *Betting Control Act 1954* ”; and

(b) by adding the subsection following —

“

(7) The TAB shall, in the prescribed manner, pay to the Betting Control Board established under the *Betting Control Act 1954* an annual fee, to meet the costs of that Board in regulating TAB operations, of such an amount as may be —

(a) determined by the Betting Control Board; and

(b) approved by the Minister.

”.

**Section 28 amended**

14. (1) Section 28 (1) of the principal Act is amended —

(a) in paragraph (e) —

(i) by deleting “section 20 (1) (aa) and (c)”, and substituting the following —

“ section 20 (1) (a), (aa) and (c) ”;

(ii) by deleting “and duty received by the TAB under section 24” and substituting the following —

“  
retained by the TAB under section  
17E of the *Betting Control Act 1954*  
”;

and

(iii) by deleting “; and” and substituting a comma;

(b) by deleting paragraph (f);

(c) by deleting “to the Club and the Association”; and

(d) by deleting “as agreed between the TAB, the Club and the Association and in default of agreement, as the Minister directs” and substituting the following —

“  
in such manner as the Minister may direct  
in accordance with a written law  
”.

(2) Section 28 (2) of the principal Act is amended —

(a) by deleting “Subject to subsection (3a), the” and substituting the following —

“ The ”;

(b) in paragraph (h) —

(i) by deleting “31 July 1996” and substituting the following —

“ on such date as is prescribed ”; and

(ii) in subparagraph (ii), by deleting “balance;” and substituting the following —

“

balance,

and in respect of each racing year, or part of a year, thereafter, an amount equal to 65% of all moneys received by the TAB in respect of bets on horse races and held in that balance.

”;

and

(c) by deleting paragraphs (i), (j) and (k).

(3) Section 28 (3) of the principal Act is amended —

(a) by deleting “Subject to subsection (3a), the” and substituting the following —

“ The ”; and

(b) in paragraph (h) —

(i) by deleting “31 July 1996” and substituting the following —

“ on such date as is prescribed ”; and



- (b) in paragraph (b), by deleting “80%” and substituting the following —

“ the balance ”.

### **Section 28A amended**

15. Section 28A (1) (a) of the principal Act is amended —

- (a) by deleting “section 24 (2)” and substituting the following —

“

section 17E (2) of the *Betting Control Act 1954*

”;

and

- (b) by inserting, after “section 27”, the following —

“ of this Act ”.

### ***Division 4 — Regulation of betting***

### **Long title amended**

16. The long title to the principal Act is amended by deleting “**and to authorize, regulate and control betting off a race course**” and substituting the following —

“

**, to authorize the provision and operation of betting services**

”.

**Section 3 amended**

17. Section 3 of the principal Act is amended —

- (a) by deleting the definitions of “bookmaker”, “licensed premises”, “place”, “public place” and “sporting event” respectively; and
- (b) in the definition of “totalisator agency”, by deleting “or bets made with the TAB under this Act”.

**Section 17 amended**

18. Section 17 (1) of the principal Act is amended, in paragraph (a), by deleting “in accordance with this Act”.

**Section 20 amended**

19. Section 20 (1) of the principal Act is amended —

- (a) by deleting “in accordance with this Act”; and
- (b) by deleting “as provided in paragraph (c) and (d)”.

**Section 24 repealed**

20. Section 24 of the principal Act is repealed.

**Section 25 amended**

21. Section 25 of the principal Act is amended, in paragraph (a), by deleting “in accordance with this Act”.



**Sections 37, 38 and 39 repealed**

**25.** Sections 37, 38 and 39 of the principal Act are repealed.

**Section 40 amended**

**26.** Section 40 of the principal Act is amended by repealing subsection (1).

**Sections 41 to 46, 46A, 46B, 47 to 51, 51A, 52, 53 and 54 repealed**

**27.** Sections 41 to 46, 46A, 46B, 47 to 51, 51A, 52, 53 and 54 of the principal Act are repealed.

**Section 55 amended**

**28.** Section 55 of the principal Act is amended by deleting “pursuant to the *Totalisator Duty Act 1905*” and substituting the following —

“ under any written law ”.

**Section 57 amended**

**29.** (1) Section 57 (2) of the principal Act is amended —

(a) by inserting, after “rules” where it first occurs, the following —

“ referred to in subsection (3) ”;

- (b) by inserting, after “made” where it first occurs, the following —

“ under this Act or the *Betting Control Act 1954*; ”;

and

- (c) by deleting “or rules”.

- (2) Section 57 (3) of the principal Act is amended —

- (a) by deleting paragraph (a) and the word “and”, and substituting the following —

“

- (a) any regulations made —

(i) under this Act; or

(ii) under the *Betting Control Act 1954* in relation to a totalisator;  
and

”;

- (b) in paragraph (b) —

(i) by deleting “the provisions of”;

(ii) by deleting “Part III of the *Greyhound Racing Control Act 1972*” and substituting the following —

“

the *Western Australian Greyhound Racing Association Act 1981*

”;

and

(iii) by inserting, after “1985”, the following —

“

or the *Associations Incorporation  
Act 1987*

”;

and

(c) by deleting “provisions” and substituting the  
following —

“ regulations ”.

### **Second Schedule repealed**

**30.** The Second Schedule to the principal Act is repealed.

**PART 3 — BETTING CONTROL ACT 1954*****Division 1 — Preliminary*****Principal Act**

**31.** In this Part the *Betting Control Act 1954*\* is referred to as the principal Act.

[\* *Reprinted as at 20 August 1992.*

*For subsequent amendments see 1994 Index to  
Legislation of Western Australia, Table 1, p. 18.]*

***Division 2 — The Board*****Section 6 amended**

**32.** Section 6 of the principal Act is amended —

(a) in subsection (1) —

(i) by deleting “the *Betting Control Act Amendment Act 1976*” and substituting the following —

“

section 28 of the *Acts Amendment  
(Racing and Betting Legislation)  
Act 1995*

”;

and

(ii) by adding, after “date”, the following —

“  
, which —

(a) shall be a body corporate  
with perpetual succession  
and a common seal; and

(b) may sue and be sued in its  
corporate name

”;

(b) in subsection (2) —

(i) by deleting “The” and substituting the  
following —

“ The governing body of the ”;

(ii) by deleting paragraph (a) and substituting the  
new paragraph following —

“ (a) 2 *ex officio* members, being —

(i) the chief executive officer  
of the department of the  
Public Service of the State  
principally assisting the  
M i n i s t e r i n t h e  
administration of this Act;  
and

(ii) the chairperson of the  
governing body of the TAB,  
or a member of that body  
n o m i n a t e d b y i t s  
chairperson and approved  
by the Minister;

”;

and

(iii) in paragraph (f), by deleting “Inc.” and  
substituting the following —

“  
Inc.,

being persons selected by the Minister  
as people who have relevant

legislative or analytical skills or who have knowledge of, and experience or expertise in, community gambling issues, betting or the racing industry.

”;

- (c) in subsection (4), by deleting “and at any meeting of the Board at which a member is not present, the deputy of the member may exercise all the powers and functions of the member” and substituting the following —

“

and may approve a member of the governing body of the TAB nominated by its chairperson to be the deputy of the *ex officio* member referred to in subsection (2) (a) (ii)

”;

- (d) by inserting, after subsection (4), the new subsection following —

“

(4a) At any meeting of the Board at which a member is not present the deputy of that member may perform the functions of the member, and no act or omission of a person acting as a deputy under this section shall be questioned on the ground that the occasion for his or her acting had not arisen or had ceased.

”;

- (e) in subsection (5) —

- (i) by deleting “Prior to the first appointment of members and deputies of the Board and from time to time thereafter whenever” and substituting the following —

“ Whenever ”;

- (ii) by deleting “each of the bodies which is” and substituting the following —

“ the relevant body ”;

- (iii) by deleting “for appointment to nominate a person or persons for appointment” and substituting the following —

“  
by submitting, in writing, the names of its nominees and such information as to the persons named as the Minister may require  
”;

and

- (iv) by deleting “nominate in writing the person it wishes to be appointed a member or deputy, as the case requires” and substituting the following —

“  
so submit the names of 3 nominees, or such greater number of persons as the Minister may request, and such information as may be required  
”;

- (f) in subsection (6) —

- (i) by deleting “nominate a person” and substituting the following —

“ submit the names of its nominees ”;

and

- (ii) by deleting “he” and substituting the following —

“ the Minister ”;

- (g) in subsection (7), by deleting “the Governor” and substituting the following —

“  
the Minister, after consultation with the  
Minister for Public Sector Management  
”;

and

- (h) by adding the new subsection following —

“  
(8) Schedule 1 has effect with respect  
to the constitution and proceedings of the  
governing body of the Board and of its  
committees.  
”.

### **Section 6A amended**

#### **33. Section 6A (1) of the principal Act is amended —**

- (a) by deleting “he”, wherever it occurs, and substituting the following —

“ the member ”;

- (b) by inserting, after “his” wherever it occurs, the following —

“ or her ”;

- (c) in paragraph (b), by inserting, after “Minister”, the following —

“ , or dies ”;

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

- (e) by deleting paragraph (d) and substituting the new paragraphs following —

“  
· (d) the member is an insolvent under administration, as that expression is defined in the Corporations Law; or

(e) the member is —

(i) convicted of any indictable offence; or

(ii) informed in writing by the Minister that, for good cause, his or her appointment as a member is terminated as at a date therein specified,

”;

and

- (f) by deleting “to hold office for the remainder of the term of office of the person in whose place he is appointed”.

### Section 6B amended

34. Section 6B (3) of the principal Act is amended by deleting paragraph (b) and substituting the following —

“

- (b) a quorum of the Board consists of an *ex officio* member and not less than 3 appointed members;

”.

**Section 6C amended**

**35.** Section 6C of the principal Act is amended by deleting “*Public Service Act 1978*” and substituting the following —

“ *Public Sector Management Act 1994* ”.

**New section inserted**

**36.** The principal Act is amended by inserting, after section 6D, the new section following —

“

**The relationship between the Minister and the Board**

**6E.** (1) Subject to the Minister, it shall be the duty of the Board to carry out the administration of this Act.

(2) The Minister may give to the Board directions of a general character as to the exercise of its functions, and the Board shall give effect to such a direction, but where such a direction does not accord with recommendations of the Board the Board may make its advice to the Minister known to the public.

(3) The text of any direction given under subsection (2) is to be —

- (a) published in the *Gazette* within 28 days after it is given;
- (b) laid before each House of Parliament within 14 sitting days of that House after such publication; and
- (c) included in the annual report submitted by the accountable authority of the Board

under section 66 of the *Financial Administration and Audit Act 1985*.

(4) Where the Minister has referred a question or matter to the Board for advice, the Minister may act notwithstanding that the advice has not been received, and where advice is received from the Board the Minister is not bound to act on or give effect to it.

(5) The Board shall carry out such duties as may be required of it by the Minister under or in furtherance of the provisions of, and which are not inconsistent with, this Act or any other Act in relation to betting.

”.

**New section inserted**

37. The principal Act is amended by inserting, after section 6D, the new section following —

“

**Minister to have access to information**

6F. (1) For the proper conduct of the Minister's public business, the Minister is entitled to have information in the possession of the Board and to have and retain copies of documents.

(2) For the purposes of subsection (1) the Minister may —

- (a) request the Board to furnish information to the Minister;
- (b) request the Board to give the Minister access to information;

- (c) for the purposes of paragraph (b) make use of the staff of the Board to obtain the information and furnish it to the Minister.

(3) The Board is to comply with a request under subsection (2) and make its staff and facilities available to the Minister for the purposes of paragraph (c) of that subsection.

(4) In this section —

**“document”** includes any data that is recorded or stored mechanically, photographically, or electronically and any tape, disc or other device or medium on which it is recorded or stored;

**“information”** means documents or other information relating to the functions of the Board being information, as so defined, specified, or of a description specified, by the Minister.

”.

### **New section inserted**

**38.** The principal Act is amended by inserting, after section 6D, the new section following —

“

### **Functions of the Board**

**6G.** (1) Subject to any other written law, it shall be the duty of the Board —

- (a) to administer the law relating to the regulation of betting carried on under this Act or the *Totalisator Agency Board Betting Act 1960*;

- (b) to review the conduct, extent and character of that betting, including the provision, use and location of the betting facilities, and to cause licences, permits and authorizations relating to that betting to be issued as appropriate;
- (c) in conjunction with the Gaming Commission and the racing industry controlling authorities, taking into account the requirements and interest of the community as a whole, to formulate and implement policies for the scrutiny, control and regulation of that betting;
- (d) to —
  - (i) license; or
  - (ii) grant, refuse or revoke any permit, approval, or authorization in respect of,  
  
persons, premises, facilities, equipment and betting operations concerned with betting or in relation to whom or which a licence, permit, approval or authorization is sought;
- (e) to advise the Minister, either of its own motion or upon the request of the Minister, as to any matter relating to that betting;
- (f) to make recommendations to the Minister in relation to the control or supervision of particular kinds of betting or betting in particular circumstances, and as to the fees and charges to be prescribed;

- (g) to administer a scheme for the collection and verification of the payments of bookmakers' betting levy —
  - (i) to be remitted under section 15 (5) (b); or
  - (ii) deliverable under section 16 (3) (c),  
together with any additional levy payable under section 18B, and to cause to be paid into the Consolidated Fund all such moneys as are from time to time received by the Board;
- (h) to enforce, and to prosecute persons contravening —
  - (i) this Act; and
  - (ii) the *Totalisator Agency Board Betting Act 1960*,

and, for the purposes of this Act, to carry out such other activities, or perform such other functions, as may be prescribed.

(2) Subject to this Act, the Board has such powers as are necessary to carry out its duties and, in particular, may —

- (a) formulate and implement policies for the administration and control of betting conducted in the State under this Act or the *Totalisator Agency Board Betting Act 1960*;
- (b) approve, or withhold approval from, persons, premises, facilities, equipment and betting operations, for the purposes of this Act or the *Totalisator Agency Board Betting Act 1960*;

- (c) formulate, and impose, prohibitions or conditions to be applicable to, or in relation to, the conduct of betting, the type of betting which may or may not be conducted, and the rules under which betting is to be conducted;
- (d) grant or issue, and amend or revoke, licences, permits, approvals or authorizations relating to betting and the use of premises for betting;
- (e) seek, receive, disseminate or publish information relevant to betting and the incidence of betting and its effect in the community; and
- (f) make prescribed charges and impose prescribed fees.

(3) For the purpose of administering the requirements of this Act the Board may require such reports to be furnished, and institute and carry out such inspections, investigations and inquiries, as the Board considers to be necessary or expedient.

”.

### **Section 9 repealed and a new section substituted**

**39.** Section 9 of the principal Act is repealed and the new section following is substituted —

“

#### **Funds of the Board**

**9.** (1) The funds available for the purpose of enabling the Board to perform its functions consist of —

- (a) money from time to time appropriated by Parliament; and

- (b) any other money lawfully received by, or made available, given or payable to, the Board for the purposes of this Act.

(2) There shall be established and kept —

- (a) at the Treasury, as an account forming part of the Trust Fund constituted under section 9 of the *Financial Administration and Audit Act 1985*; or
- (b) with the approval of the Treasurer, at a bank,

an account to be called the “Western Australian Betting Control Board Fund”, and the cost of the administration of this Act shall be paid from that account.

(3) There shall be credited to the Fund, subject to the payment into the Consolidated Fund in accordance with the scheme referred to in section 6G (1) (g) of any amount received by the Board in respect of bookmakers’ betting levy, all moneys to which subsection (1) refers.

(4) The Fund may be used —

- (a) to meet the costs of the administration of this Act, including any expense incidental to the administration of the Fund;
- (b) so far as the Board may be liable for that payment, for the payment of any expense directly connected with the control or management of on-course or off-course betting on racing or betting on sporting events, or any other activity not inconsistent with this Act assumed by the Board; and
- (c) for any other expenditure lawfully incurred under and for the purposes of this Act.

**Section 10 repealed and a new section substituted**

40. Section 10 of the principal Act is repealed and the new section following is substituted —

“

***Application of Financial Administration and  
Audit Act 1985***

10. (1) The provisions of the *Financial Administration and Audit Act 1985* regulating the financial administration, audit and reporting of statutory authorities apply to and in respect of the Board and its operations.

(2) Notwithstanding the provisions of the *Financial Administration and Audit Act 1985*, the financial year of the Board shall end on 31 July.

”

**Schedule 1 inserted**

41. The principal Act is amended by inserting, as Schedule 1, the Schedule following —

“

**SCHEDULE 1**

[Section 6 (8)]

**PROVISIONS APPLICABLE TO THE BOARD  
AND COMMITTEES**

**Tenure of office**

1. A member whose term of office expires due to the effluxion of time —

(a) is eligible to be reappointed; and

- (b) continues in office until he or she is reappointed or a successor comes into office (as the case may be).

**Disclosure of interests**

2. (1) A member of the Board or of a committee of the Board who has a direct or indirect interest, other than as a member, in a matter before the Board or a committee —

- (a) shall, as soon as the person is aware of the matter, disclose the nature of the interest to the Board or the committee; and
- (b) shall not without the approval of the Board or the committee take part in any deliberation or decision of the Board or committee with respect to the matter.

Penalty: \$5 000.

(2) A disclosure made by a person under this clause shall be recorded in the minutes of the Board or the committee.

**General procedure concerning meetings**

3. The procedure for convening meetings of the Board or a committee and the conduct of business at those meetings shall, subject to this Act, be as determined by the Board.

**Committees**

4. (1) The Board may from time to time appoint committees of members, or such members and other persons as it thinks fit, and may discharge or alter any committee so appointed.

(2) Any committee shall cause accurate minutes of its meetings to be recorded and preserved.

(3) Subject to this Act, the directions of the Board and the terms of any delegation under section 6D, each committee may determine its own procedures.

**Resolution may be passed without meeting**

5. A resolution in writing signed or assented to by each member by letter, telegram, telex or facsimile transmission is as valid and effectual as if it had been passed at a meeting of the Board.

”.

***Division 3 — Regulation of Betting***

**Long title**

42. The long title to the principal Act is amended —

(a) by inserting, after “**racing**”, the following —

“ **and on sporting events** ”;

(b) by deleting “**tax**” and substituting the following —

“ **levy** ”; and

(c) by deleting “**bets,**” and substituting the following —

“  
**bets; to authorize, regulate and control  
the use of totalisators and betting  
with, or through, the Totalisator  
Agency Board;**

”.

**Section 4 amended**

43. (1) Section 4 (1) of the principal Act is amended —

- (a) by deleting the definition of “bookmaker” and substituting the new definition following —

“

**“bookmaker”** means a person who —

- (a) carries on the business or vocation of, or acts as, a bookmaker; or
- (b) gains or endeavours to gain a livelihood wholly or partly by betting or making wagers,

(whether on their own account or as employee or agent of another person), and who holds a current bookmaker’s licence, but does not include any officer, agent or employee of the TAB when acting for and on behalf of the TAB;

”;

- (b) by deleting the definition of “place” and substituting the new definition following —

“

**“place”** includes any part of any building, structure, house, office, room, tent, enclosure, premises or land, or of any vessel, vehicle, train or aircraft whether or not stationary;

”;

- (c) by deleting the definitions of “Commissioner”, “vessel”, and “vehicle”, respectively;

- (d) in the definition of “public place” —
- (i) by deleting “means” and substituting the following —
- “ includes any part of ”; and
- (ii) by deleting “, 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”;

and

- (e) by inserting, in the appropriate alphabetical positions, the new definitions following —

“

**“equipment”** includes any totalisator or other device employed in relation to betting operations;

**“the Fund”** means the Western Australian Betting Control Board Fund established under section 9;

**“the TAB”** means the Totalisator Agency Board constituted under the *Totalisator Agency Board Betting Act 1960*;

**“ticket”** means a betting ticket or a totalisator ticket;

**“totalisator”** and **“totalisator ticket”** have for the purposes of this Act the same respective meanings as they have for the purposes of the

*Totalisator Agency Board Betting  
Act 1960;*

**“totalisator agency”** means any totalisator agency established by the TAB, and includes any premises on which bets on a race or sporting event may be made on a totalisator through or with the TAB.

”.

(2) Section 4 (2) of the principal Act is amended by deleting “betting ticket”, in each place where it occurs, and substituting the following —

“ ticket ”.

**Section 4B amended**

44. Section 4B (5) of the principal Act is amended by deleting “and the Commissioner, respectively,”.

**Section 5 amended**

45. (1) Section 5 (1) of the principal Act is amended by deleting paragraph (a) and substituting the new paragraph following —

“

(a) on races, except on Anzac Day during the period ending at 12 noon;

”.

(2) Section 5 (1a) of the principal Act is amended by deleting “after consultation with the Commissioner”.

**Section 7 amended**

**46.** Section 7 of the principal Act is amended —

(a) by inserting, after the section designation “7.”, the subsection designation “(1)”;

(b) by deleting “shall” and substituting the following —

“ may ”; and

(c) by adding the new subsections following —

“

(2) Subject to the Minister, the Board may request the chief executive officer of the department of the Public Service of the State known as the Office of Racing, Gaming and Liquor to make available the services of any officer of, or facilities provided by, that department to undertake such matters as the Board considers to be necessary or expedient for the purposes of this Act.

(3) The Board may engage, under contract for services, such consultants as may be necessary to enable the Board to carry out effectively its functions under this Act, and may enter into arrangements with other bodies or persons, whether in the State or elsewhere, with respect to the conduct of any research, study, inquiry or investigation or to any professional, technical or other assistance that may be necessary or expedient for the purposes of this Act.

(4) On the request of the Board the Commissioner of Police may cause inquiry

or investigations to be made, and report, as to —

- (a) any testimonial, books or other information supplied by or on behalf of a person who is the holder of, or an applicant for, any licence, permit, approval or authorization under this Act;
- (b) the character, reputation, and antecedents of any such person, 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;
- (c) the suitability of —
  - (i) any person to conduct, or to be concerned in the conduct of, betting under this Act or the *Totalisator Agency Board Betting Act 1960*;
  - (ii) any individual appointed to act on behalf of any body, corporate or unincorporate; or
  - (iii) a person for whom another acts;
- (d) any premises, facilities, equipment, betting operations,

accounting procedures,  
advertising or inducements,  
used or suspected of being used  
in connection with betting, or  
intended to be so used;

- (e) any matter concerning a racing club, relevant to its operations under this Act;
- (f) the conduct or suspected conduct of any betting, or suspected betting; and
- (g) allegations, representations or objections made in respect of any such matters,

for which purpose the Commissioner of Police is authorized to disclose criminal records in any report to the Board and, if the Board so requests, to a court.

(5) The contents of any report made to the Board by a member of the Police Force or any other person required under this Act to furnish such a report are absolutely privileged —

- (a) from production; and
- (b) in relation to any proceedings for defamation in any court of law,

unless a Judge otherwise directs.

**Section 11 amended**

47. Section 11 of the principal Act is amended —

(a) in subsection (8) —

(i) by inserting “and” after paragraph (a);

(ii) in paragraph (b), by deleting “applicant;” and substituting the following —

“ applicant. ”; and

(iii) by deleting paragraph (c), and the word “and” which precedes that paragraph;

and

(b) in subsection (13), in paragraph (a), by deleting “paying any” and substituting the following —

“

discharging any portion of any bookmakers’  
annual licence fee or bookmakers’ betting  
levy due under this Act, and any other

”.

**Section 12 amended**

48. Section 12 of the principal Act is amended —

(a) in subsection (3), by inserting in paragraph (a), before “during”, the following —

“

except as regards betting on sporting  
events as authorized and approved under  
section 4B,

”;

and

(b) in subsection (5) (c) —

(i) in subparagraph (iii), by deleting “betting tax paid and payable, is furnished to the Commissioner in the prescribed manner” and substituting the following —

“  
bookmakers’ betting levy paid and payable, is delivered to the Board in a manner approved by the Board  
”;

and

(ii) in subparagraph (iv), by deleting “tax” and substituting the following —

“ levy ”.

### **New section inserted**

**49.** The principal Act is amended by inserting, after section 12, a new section as follows —

“

#### **Bookmakers’ annual licence fee**

**13.** (1) Subject to this Act, for so long as a bookmaker’s licence is in force the holder shall pay a bookmakers’ annual licence fee at a prescribed rate assessed on the total turnover of that bookmaker during the preceding year of assessment.

(2) In this section —

“**on-course turnover**” and “**turnover**”, respectively, have the same meaning as they have for the purposes of section 14;

**“total turnover”** means the aggregate of the turnover which relates to bets made under this Act.

(3) Subject to subsection (4), the licence fee payable shall be —

- (a) assessed in respect of an assessment year commencing on 1 August; and
- (b) paid at the prescribed time in the prescribed manner.

(4) In respect of the assessment year ending on 31 July following the coming into operation of this section, and in respect of any new licence granted after the coming into operation of this section during the course of an assessment year, the licence fee shall be payable on the prescribed basis.

(5) Regulations made under this Act may make provision for the purposes of this section and, in particular, may —

- (a) prescribe different rates of fee to be payable in respect of —
  - (i) different codes of racing;
  - (ii) different classes of bet;
  - (iii) betting by different means of communication; or
  - (iv) different classes of licence;

- (b) specify how records shall be compiled and dealt with, the time and method of their delivery, and manner in which information shall be supplied to the Board;
- (c) provide for the delivery, by bookmakers to the Board, of an annual return made, and verified, in the prescribed manner; and
- (d) require payment, or payment of a specified part, of the amount payable to be made in a prescribed manner.

”.

#### **Section 14 amended**

**50.** Section 14 of the principal Act is amended —

- (a) in subsection (1), in the definition of “**on-course turnover**” —
  - (i) by deleting “**on-course**”;
  - (ii) by deleting “, and which are referred to in section 15”;
  - (iii) in paragraph (a), by deleting “him” and substituting the following —

“ the bookmaker ”;
  - (iv) in paragraph (a) and paragraph (b), by inserting after “his,” the following —

“ or her ”;
  - (v) in paragraph (b), by deleting “Commissioner” and substituting the following —

“ Board ”;

(vi) in paragraph (b), by deleting “bookmaker;” and substituting the following —

“ bookmaker. ”; and

(vii) by deleting the definitions of “tax” and “taxing Act” and substituting, in the appropriate alphabetical position, the definition following —

“ **“levy”** means bookmakers’ betting levy payable under this Act, as imposed by the *Bookmakers Betting Levy Act 1954*; ”;

(b) by inserting, in the appropriate alphabetical position, the new definition following —

“ **“on-course turnover”** means the turnover which relates to bets of the kind referred to in section 15; ”;

(c) in subsection (2) —

(i) in paragraph (a), by inserting, after “his”, the following —

“ or her ”;

(ii) in paragraph (b) by deleting “tax” and substituting the following —

“ levy ”; and

(iii) in paragraph (b), by deleting “by the taxing Act” and substituting the following —

“ for that year by the *Bookmakers Betting Levy Act 1954* ”;

- (d) in subsection (3), by inserting, after “his”, the following —
  - “ or her ”; and
- (e) by repealing subsection (4).

**Section 15 amended**

**51.** Section 15 of the principal Act is amended —

- (a) in subsections (2), (4), (5), (6) and (7), wherever it occurs, by deleting “Commissioner” and substituting the following —
  - “ Board ”;
- (b) in subsection (2) —
  - (i) by deleting “that person at the meeting” and substituting the following —
    - “ or on behalf of the bookmaker ”;
  - (ii) in paragraph (a), by inserting, after “meeting”, the following —
    - “ , when the bet is made ”;
  - (iii) in paragraph (b), by inserting, after “elsewhere”, the following —
    - “ when the bet is made ”; and
  - (iv) in paragraph (c), by adding, after “made,” the following —
    - “ when the bet is made, ”;

(c) in subsection (3) —

- (i) by deleting “conducting the race meeting”;
- (ii) in paragraph (a), by deleting “the meeting” and substituting the following —

“ a meeting conducted by that club ”;

- (iii) in paragraph (b), by inserting, after “meeting” in the first place where it occurs, the following —

“ conducted by that club ”; and

- (iv) in paragraph (c), by deleting “at the conclusion of the race meeting at which the bet was made” and substituting the following —

“  
if the bet was made at a race meeting  
conducted by that club at the  
conclusion of that race meeting but  
otherwise at such time and in such  
manner as may be required by the  
Board, in a notice published under  
section 4B (3) or otherwise;

”;

(d) in subsection (4) —

- (i) by deleting “at the time of the race meeting”;
- (ii) in paragraph (a), by deleting “by him” and substituting the following —

“ by that person ”;

- (iii) in paragraph (a), by deleting “tax” and substituting the following —

“ levy ”; and

- (iv) in paragraph (b), by deleting “tax.” and substituting the following —

“

levy,

but if a bet was made in respect of a sporting event otherwise than during a race meeting the required return shall be delivered and payment of the required levy shall be made at such time and in such manner as may be required by the Board, in a notice published under section 4B (3) or otherwise.

”;

- (e) in subsection (5) —

- (i) by deleting “tax” and substituting the following —

“ levy ”;

- (ii) in paragraph (a), by deleting “50 per centum” and substituting the following —

“ the prescribed percentage ”; and

- (iii) in paragraph (b), by inserting, after “remit”, the following —

“

, in the manner required by section 18A (2),

”;

and

- (f) by adding the new subsection following —

“

(8) Regulations made under this Act may make provision for the purposes of this section and, in particular, may prescribe different requirements in relation to betting of different kinds.

”.

### **Section 16 amended**

- 52.** Section 16 of the principal Act is amended —

- (a) in subsections (2) and (3), wherever it occurs, by deleting “Commissioner” and substituting the following —

“ Board ”;

- (b) in subsection (3) —

- (i) in paragraph (b), by deleting “tax” and substituting the following —

“ levy ”; and

- (ii) in paragraph (c), by deleting “of betting tax” and substituting the following —

“ payable as bookmakers’ betting levy ”;

and

- (c) by adding the new subsection following —

“

(4) Regulations made under this Act may make provision for the purposes of this section and, in particular, may prescribe different requirements in relation to betting of different kinds.

”.

### **Section 16A amended**

- 53.** Section 16A (1) of the principal Act is amended —

- (a) in paragraph (a), by deleting “or the Commissioner”;
- (b) in paragraph (b), by deleting “Commissioner” and substituting the following —
- “ Board ”;
- (c) in paragraph (c), by deleting “section 17A” and substituting the following —
- “ the regulations as to the use of tickets ”;
- (d) in paragraph (f), by deleting “, the Board or the Commissioner” and substituting the following —
- “ or to the Board ”;
- (e) in paragraph (h), by deleting “or the Commissioner”; and
- (f) in paragraph (j) —
- (i) by deleting “, the Commissioner”;



- (ii) an authorization to possess  
and operate a totalisator;

or

- (b) bookmakers' betting levy,

in respect of the consideration not to be  
received or retained

”;

and

- (e) by deleting “the tax” and substituting the following —

“ it ”.

### **Section 17A repealed and a new section substituted**

**55.** Section 17A of the principal Act is repealed and the new section following is substituted —

“

#### **Annual licence fee in respect of totalisators**

**17A.** (1) Subject to this Act, for so long as an authorization to which section 17B refers is lawful and the totalisator is operated the operator shall pay an annual licence fee at a prescribed rate assessed on the total turnover of that totalisator during the preceding year of assessment.

- (2) In this section —

“**on-course turnover**” and “**turnover**”,  
respectively, have the same meaning as  
they have for the purposes of section 14;

**“total turnover”** means the aggregate of the turnover which relates to bets made under this Act.

(3) Subject to subsection (4), the licence fee payable shall be —

- (a) assessed in respect of an assessment year commencing on 1 August; and
- (b) paid at the prescribed time in the prescribed manner.

(4) In respect of the assessment year ending on 31 July following the coming into operation of this section, and in respect of any new authorization granted after the coming into operation of this section during the course of an assessment year, the licence fee shall be payable on the prescribed basis, apportioned to take account of any period when betting did not occur, and a refund or further demand may be made on actual returns for the relevant period being verified.

(5) For the purpose of the assessment of the amount of the annual licence fee the operator of the totalisator shall deliver to the Board an annual return of totalisator turnover made, and verified, in the prescribed manner.

(6) Regulations made under this Act may make provision for the purposes of this section and, in particular, may prescribe different requirements in relation to betting of different kinds.

**Section 17B amended**

**56.** Section 17B of the principal Act is amended by adding the new subsections following —

“

(5) The secretary and members of the committee or executive body of a racing club authorized to possess and operate a totalisator shall in accordance with the regulations record, or cause to be recorded, full particulars of the operation of that totalisator and of its takings and the manner in which they were taken, of amounts distributed as dividends, of amounts remaining undistributed, of dividends unpaid, of the kind of bets made and such other matters as are prescribed.

(6) In respect of the operation of a totalisator to which this section applies, no dividends shall be paid or recoverable —

- (a) otherwise than on presentation of the ticket for which the dividend is claimed; or
- (b) after the expiration of 3 months from the date of declaration of the dividend.

(7) Section 16A has effect in relation to the operation of a totalisator to which this section applies as if —

- (a) a reference to a bookmaker were a reference to the operator of the totalisator; and
- (b) a reference to a licensed employee were a reference to the secretary and members of the committee or executive body of a racing club, or any other person, concerned in the operation of the totalisator.

(8) Regulations made under this Act may make provision for the purposes of this section and, in particular, may prescribe different requirements in relation to betting of different kinds.

”

### **New section inserted**

**57.** The principal Act is amended by inserting, after section 17D, the new section following —

“

### **Percentage of off course bets to belong to TAB**

**17E.** (1) Where the amount of any bet is, in the first instance, received by the TAB or one of its agencies —

- (a) the TAB shall deduct therefrom, by way of commission, the amount prescribed as the commission for a bet of that kind; and
- (b) any amount so deducted by the TAB shall for all purposes belong to the TAB and form part of the general funds of the TAB.

(2) Where the TAB is of the opinion that it is necessary, in order to participate in a combined totalisator pool scheme of a kind to which section 27 of the *Totalisator Agency Board Betting Act 1960* refers, to amend the percentage of the commission that would otherwise be payable under subsection (1) the TAB may determine what that percentage should be and deduction of the amount of commission at the rate so determined, instead of at the rate prescribed, shall be lawful.

”

**New section inserted**

**58.** The principal Act is amended by inserting, after section 17D, the new section following —

“

**Percentage of bets to belong to racing club**

**17F.** Where the amount of any bet is, in the first instance, received by a racing club for inclusion in a totalisator pool, and that racing club has been duly authorized under this Act to operate a totalisator —

- (a) the racing club shall deduct therefrom, by way of commission, the amount prescribed as the commission for a bet of that kind; and
- (b) any amount so deducted shall for all purposes belong to the racing club and form part of its general funds.

”.

**Section 18 amended**

**59.** Section 18 of the principal Act is amended by inserting, after “tax”, the following —

“

which was payable in respect of any period prior to the coming into operation of section 42 of the *Acts Amendment (Racing and Betting Legislation) Act 1995* or for bookmakers' betting levy thereafter

”.

**Section 18A amended**

**60.** Section 18A of the principal Act is amended —

(a) in subsection (1) —

(i) by deleting “Commissioner”, wherever it appears, and substituting the following —

“ Board ”;

(ii) in paragraph (b), by deleting “the bookmaker” and substituting the following —

“ each of those persons ”;

(iii) in paragraph (b), by deleting “by him” and substituting the following —

“ by that person ”;

(iv) in paragraph (c), by deleting “tax” and substituting the following —

“ levy ”; and

(v) in paragraph (c), by deleting “due to it pursuant to section 15.” and substituting the following —

“  
which it is authorized to  
retain in accordance with  
section 15 (5) (a),

but if a bet was made in respect of a sporting event otherwise than during a race meeting the required return shall be forwarded at such time and in such manner as may be required

by the Board, in a notice published  
under section 4B (3) or otherwise.

”;

and

(b) in subsection (2) —

(i) by deleting “Commissioner”, in both places where  
it occurs, and substituting the following —

“ Board ”;

(ii) in paragraph (a), by deleting “tax” and  
substituting the following —

“ levy ”; and

(iii) in paragraph (b), by inserting, after “paid”, the  
following —

“  
, at each of the respective meetings to  
which the return relates,

”.

### **Section 18B amended**

**61.** Section 18B of the principal Act is amended —

(a) in subsection (1) —

(i) by inserting, before “bookmakers’ betting tax”,  
where it first occurs, the following —

“  
money in respect of any annual  
licence fee, or any

”;

(ii) in paragraph (a), by deleting “which are made by or on behalf of a bookmaker”;

(iii) in paragraph (a), by inserting, after “payment of”, the following —

“ such a fee or any ”; and

(iv) in paragraph (b), by deleting “bookmakers’ betting” and substituting the following —

“ fee or ”;

(b) in subsection (2) —

(i) in paragraph (a), by inserting, before “bookmakers’ betting tax”, the following —

“  
money due in respect of any annual  
licence fee or as  
”;

(ii) in paragraph (b), by inserting, after “to pay”, the following —

“ any annual licence fee or any ”;

(iii) in paragraph (b), by deleting “in respect of that tax”; and

(iv) by inserting, before “upon which”, the following —

“ of fee due or ”;

(c) in subsection (3) —

- (i) in paragraph (a), by deleting “and of”, where it first occurs, and substituting the following —

“  
of any money due in respect of an  
annual licence fee, or  
”;

- (ii) in paragraph (a), by inserting, after “bookmaker”, the following —

“ or racing club ”;

- (iii) in paragraph (b), by inserting, after “bookmaker”, in both places where it occurs, the following —

“ or racing club ”; and

- (iv) in paragraph (b), by inserting, after “amount”, the following —

“ in respect of the annual licence fee, or ”;

(d) in subsection (5) —

- (i) by inserting, after “bookmaker who”, the following —

“ or racing club which ”;

- (ii) by inserting, after “to pay”, where it first occurs, the following —

“  
in respect of an annual licence fee or  
any  
”;

- (iii) by inserting, after “by way of”, the following —
    - “ penalty fee or ”;
  - (iv) by inserting, after “amount of the”, the following —
    - “ fee or ”; and
  - (v) by inserting, after “remit”, the following —
    - “ that penalty fee or ”;
- and
- (e) throughout, wherever it occurs —
    - (i) by deleting “Commissioner” and substituting the following —
      - “ Board ”; and
    - (ii) by deleting “tax” and substituting the following —
      - “ levy ”.

**Section 19 amended**

**62.** Section 19 of the principal Act is amended —

- (a) throughout, wherever it occurs —
  - (i) by deleting “tax” and substituting the following —
    - “ levy ”; and

- (ii) by deleting "Commissioner" and substituting the following —

" Board ";

and

- (b) in subsection (2), by deleting paragraph (a).

**New section inserted**

**63.** The principal Act is amended by inserting, after section 19, the following new section —

"

**Board may recover unpaid money in respect of an annual licence fee**

**19A.** Where —

- (a) a bookmaker; or  
(b) a racing club authorized to possess and use a totalisator,

does not make payment in respect of any money due as an annual licence fee payable under this Act the Board may, without prejudicing the liability of that bookmaker or race club to pay a penalty fee under this Act, sue for the amount unpaid in a court of competent jurisdiction.

"

**Section 20 amended**

**64.** Section 20 of the principal Act is amended —

- (a) in subsection (1) —

- (i) by deleting "Commissioner" and substituting the following —

" Board "; and

(ii) by inserting, after “his” in both places where it occurs, the following —

“ or her ”;

(b) in subsection (2) (a), by inserting, after “his”, the following —

“ or her ”;

(c) in subsection (3) (b) and (c), by inserting, after “his”, the following —

“ or her ”;

(d) in subsection (3) (b), by deleting “to him”; and

(e) in subsection (4), by deleting “the Commissioner,” and “or the Commissioner”.

### **Section 21 amended**

**65.** Section 21 of the principal Act is amended —

(a) by inserting, after the section designation “**21.**”, the subsection designation “(1)”; and

(b) by adding the new subsections following —

“

(2) A person shall not knowingly —

(a) loiter in front of any place where a totalisator is being operated for the lodging or receiving of bets;

(b) take a person under the age of 18 years into any place where a

totalisator is being operated,  
unless for a purpose referred to  
in subsection (3) (c) (ii);

- (c) take intoxicating liquor or any  
noxious substance into a place  
where a totalisator is being  
operated or any other area  
specifically in use for the lodging  
and receiving of bets by means  
of a totalisator; or
- (d) place a bet with or through the  
TAB for any person who is —
  - (i) under the age of 18 years;  
or
  - (ii) prohibited from entering a  
place where a totalisator is  
being operated.

(3) A person to whom this subsection  
applies shall not knowingly —

- (a) accept a bet from, or pay moneys  
or deliver a totalisator ticket to,  
any person apparently under the  
age of 18 years;
- (b) accept a bet from, or pay moneys  
or deliver a totalisator ticket to,  
a person apparently under the  
influence of intoxicating liquor;
- (c) permit —
  - (i) a person apparently under  
t h e i n f l u e n c e o f  
intoxicating liquor; or

- (ii) a person under the age of 18 years who is not entering the premises for the purpose of delivery of mail or goods or effecting repairs or otherwise carrying out duties,

to enter in or remain on a totalisator agency or any other area specifically in use for the lodging and receiving of bets by means of a totalisator;

- (d) employ, in any place where a totalisator is being operated, any person who has not attained the age of 18 years; or
  - (e) in any place where a totalisator is being operated, use or permit the use of any appliance capable of being used for receiving, or for reproducing or increasing the volume of sound of, broadcast programmes or television, unless the volume of sound emitted by the appliance is so controlled that it does not constitute an annoyance to persons outside the premises where the totalisator is being operated.
- (4) Subsection (3) applies —
- (a) in relation to any totalisator off-course, to any manager, secretary, officer, employee or agent of the TAB or employee of an agent of the TAB; and

- (b) in relation to any totalisator on-course, to the operator authorized under section 17B or any other person concerned in the operation of that totalisator.

”.

**Section 22 amended**

**66.** Section 22 of the principal Act is amended —

- (a) by inserting, after the section designation “22.”, the subsection designation “(1)”;

- (b) in paragraph (c), by inserting, after “him”, the following —

“ or for her ”;

- (c) by deleting the penalty and substituting the penalty following —

“ Penalty: \$200. ”; and

- (d) by adding the new subsection following —

“

(2) No person under the age of 18 years shall —

- (a) enter or remain in any totalisator agency while it is open for the lodging or receiving of bets, except for a purpose referred to in section 21 (3) (c) (ii), but that exception does not authorize employment contrary to the provisions of section 21 (3) (d);

- (b) make a bet with or through the TAB; or
- (c) request any other person to place such a bet for him or for her.

Penalty: \$200.

”.

**Section 23 amended**

**67.** Section 23 (1) of the principal Act is amended —

- (a) by deleting “or at or in a public place” and substituting the following —

“

or be at or in a public place for the purpose of betting

”;

- (b) by deleting paragraph (b) and substituting the new paragraph following —

“

(b) unless the bet is made —

- (i) by means of a totalisator duly authorized to operate under, and in accordance with, a written law; or
- (ii) otherwise, with a bookmaker in accordance with this Act;

”;

and

- (c) by deleting “Penalty: \$500.” and substituting the following —

“

Penalty: \$10 000, or 24 months imprisonment, or both.

”.

**New section inserted**

**68.** The principal Act is amended by inserting, after section 23, the new section following —

“

**Unlawful betting**

**24.** (1) Subject to this Act, a person who —

- (a) not being the holder of a current bookmaker’s licence carries on the business or vocation of, or acts as, a bookmaker; or
- (b) bets with any other person who carries on, or purports to carry on, the business or vocation of, or who acts as, a bookmaker but is not the holder of a current bookmaker’s licence; or
- (c) bets with a bookmaker, otherwise than in accordance with this Act; or
- (d) bets by means of a totalisator, not being a totalisator duly authorized to operate under, and operated in accordance with, a written law; or

- (e) bets with a totalisator, otherwise than in accordance with the written law by which the operation of that totalisator is authorized,

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

Penalty: \$10 000, or 24 months imprisonment, or both.

(2) In this section, the term “bets” includes negotiating bets, receiving or paying money in connection with bets, and settling bets, on or in connection with the result of any race or sporting event.

(3) A complaint for an offence against this section committed after the commencement of this subsection, may be made at any time within 5 years from the date the offence was committed.

”.

## **Section 25 amended**

**69.** Section 25 (3) of the principal Act is amended —

- (a) by deleting “No bookmaker” and substituting the following —

“

An order made under subsection (1) shall be given effect to by the TAB, any person authorized to operate a totalisator, and any person who is, or acts on behalf of, any bookmaker, and neither the TAB nor any such person shall,

”;

and

- (b) by deleting “such prohibition shall,” and substituting the following —

“

the making of an order under  
subsection (1),

”.

**New section inserted**

- 70.** The principal Act is amended by inserting, after section 25, the new section following —

“

**Loitering in street or public place**

**26.** If any member of the Police Force has reasonable grounds for suspecting that a person is standing or loitering in any street or public place for the purpose of, or with the intention of, betting contrary to this Act, the person shall, whether or not such standing or loitering causes, or tends to cause, an obstruction to traffic in that street or public place, not refuse or neglect to move on when requested by that member of the Police Force so to do.

Penalty: \$200.

”.

**New section inserted**

- 71.** The principal Act is amended by inserting, after section 25, the new section following —

“

**Removal of persons**

**26A.** (1) If any member of the Police Force has reasonable grounds for suspecting that, in any place, a person is guilty of, or has on that day been guilty of,

betting contrary to the provisions of section 24, that member of the Police Force may, without warrant, arrest that person and remove that person from that place.

(2) If a person suspected of having committed an offence against this Act is arrested under this section, a report of that fact, and of the circumstances, shall forthwith be made to the Attorney General.

(3) No person who has been removed from a place under this section shall, during the day on which the person was so removed, re-enter or be again upon that place, or any place contiguous thereto.

Penalty: \$100.

(4) No member of the Police Force who acts *bona fide* in the intended exercise of the powers conferred by subsection (1) is liable to any proceedings, civil or criminal, in consequence of having so acted.

”

### **New section inserted**

72. The principal Act is amended by inserting, after section 25, the new section following —

“

#### **Penalty for persons warning offenders of the approach of a member of the Police Force**

**26B.** A person who is in or near to any place, whether a public place or not, for the purpose of giving warning to any other person of the presence or approach of any member of the Police Force, or for the purpose of preventing the detection of any offence against this Act, commits an offence.

Penalty: \$5 000.

”

**New section inserted**

**73.** The principal Act is amended by inserting, after section 25, the new section following —

“

**Unlawful betting on licensed premises**

**26C.** (1) If —

- (a) a person is convicted for an offence under section 23 or 24; and
- (b) the offence took place on premises in respect of which a licence has been granted under the *Liquor Licensing Act 1988*,

the licensee, any manager of the business conducted under the licence, and any employee or agent of such a person who permitted the offence under section 23 or 24 to occur on those premises, commits an offence.

Penalty: In the case of the licensee or manager, \$5 000;

In the case of an employee or agent,  
\$2 000.

(2) In any proceedings against a person under subsection (1), any statement made by the person convicted for the offence under section 23 or 24, 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 subsection (1) to show —

- (a) that the accused person or, if the accused person was not on the premises at the time

the offence against section 23 or 24 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.

(4) If any member of the Police Force has reasonable grounds for suspecting that, on any premises in respect of which a licence has been granted under the *Liquor Licensing Act 1988*, a person found on the premises —

- (a) has, at any time on that day on which the person was so found on those premises, been guilty of betting or offering to bet, contrary to the provisions of this Act; or
- (b) is on those premises for the purpose of so betting,

that member of the Police Force may, without warrant, arrest that person and remove the person from the premises, or cause the person to be so arrested or removed.

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

Penalty: \$100.

(6) No member of the Police Force who has acted *bona fide* in the intended exercise of the powers conferred by subsection (4), and no person acting under the instructions of, or for the purpose of assisting such a member, is liable to any proceedings, civil or criminal, in consequence of having so acted.

”.

### Section 27 amended

74. Section 27 of the principal Act is amended —

(a) by deleting paragraph (c) and substituting the new paragraph following —

“

(c) unless the betting is carried on —

(i) by means of a totalisator duly authorized to operate under, and in accordance with, a written law; or

(ii) otherwise, in accordance with this Act;

”.

(b) in paragraph (d), by deleting “with or through the Board”; and

- (c) by deleting “\$2 500, or imprisonment for 6 months, or both.” and substituting the following —

“  
    \$10 000, or imprisonment for 24 months, or  
    both.  
”.

### **Section 28A amended**

- 75.** (1) Section 28A (1) of the principal Act is amended —

- (a) by deleting “him” and substituting the following —

“    that justice    ”; and

- (b) by deleting “he” and substituting the following —

“    the justice    ”.

- (2) Section 28A (2) of the principal Act is amended, in paragraph (f), by inserting, after “until”, the following —

“  
    its owner or owners appear before a stipendiary  
    magistrate or 2 justices to claim the betting material  
    or money, and satisfy the magistrate or justices how  
    and for what use or purposes it was intended, or  
”.

- (3) Section 28A (3) of the principal Act is amended by inserting, after “section 23”, the following —

“    , 24    ”.

- (4) Section 28A of the principal Act is amended by adding the new subsection following —

“  
    (5) A stipendiary magistrate, or 2 justices, may,  
    subject to section 28, confiscate all or any of the

betting material, as deemed fit, if the owner or owners —

- (a) do not appear before a magistrate or justices within 21 days after the seizure of that betting material or money; or
- (b) on so appearing, do not show to the satisfaction of the magistrate or justices after due examination that the betting material or money was not in the place or public place or upon the persons found therein or thereupon for the purpose of being used in relation to, or in connection with, unlawful betting.

”.

### **Section 28B amended**

**76.** Section 28B of the principal Act is amended —

- (a) by inserting, before the section designation “**28B.**”, the following —

“

#### ***Prima facie* evidence of offence**

**28B.** Where, on the hearing of any complaint for an offence against section 23, 24 or 27 —

- (a) the evidence of the prosecution is such as to raise in the mind of the court hearing the complaint a reasonable suspicion that the person charged in the complaint is guilty of the offence charged, that evidence shall be deemed to

be *prima facie* evidence that the  
person is guilty of that offence;

”;

(b) by deleting “**28B.** If, on the hearing of any complaint for an offence against section 23 or 27,” and substituting the paragraph designation “(b)”;

(c) by deleting “its satisfaction” and substituting the following —

“ the satisfaction of that court ”;

(d) by deleting “the purposes and provisions of the first-mentioned sections or either of them” and substituting the following —

“ this Act ”; and

(e) by deleting “against him in the complaint.” and substituting the following —

“

in the complaint; or

(c) the court is of opinion that any money or thing which has to the satisfaction of that court been proved to have been —

(i) given to, or received or paid by, the accused person; or

(ii) given to, or received or paid by, any person or persons on behalf of the accused person,

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 this Act, such giving, receiving, or paying shall be deemed *prima facie* evidence of the commission by the accused person of the offence charged against that person in the complaint.

”

**New section inserted**

**77.** The principal Act is amended by inserting, after section 28B, the new section following —

“

**Offences in respect of conducting totalisator agencies**

**28C.** A person who —

- (a) having the management or control of any totalisator agency, authorizes or permits or suffers —
  - (i) the premises of that agency to be used; or
  - (ii) any act or thing to be done or omitted in or in relation to that agency,in contravention of 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 —
  - (i) is prohibited by; or
  - (ii) does not conform with,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 TAB; or
- (d) purchases any totalisator ticket from any person not authorized to sell it,

commits an offence.

Penalty: \$5 000, or imprisonment for 12 months, or both.

”.

### **New section inserted**

**78.** The principal Act is amended by inserting, after section 28B, the new section following —

“

#### **Penalty for acting as totalisator agent**

**28D.** Subject to the provisions of section 28F, a person who —

- (a) for a fee, commission, reward, share or interest of any kind; or
- (b) upon any understanding or agreement, whether express or implied, for any fee, commission, reward, share or interest,

receives from any other person any money for the purpose of placing, investing or depositing that money, or any part of that money, in any totalisator commits an offence.

Penalty: \$10 000, or imprisonment for 24 months, or both.

”.

**New section inserted**

**79.** The principal Act is amended by inserting after section 28B, the new section following —

“

**Penalty for officers of the TAB, and racing clubs and employees of totalisators, accepting instructions as to investments on totalisators**

**28E.** Subject to the provisions of section 28F, any —

- (a) officer, agent or servant of the TAB or of a racing club using a totalisator; or
- (b) person employed in connection with the totalisator,

who accepts or acts on any telegraphic, telephonic or radiographic request, instructions or directions relating to investments on that totalisator, whether the request, instructions or directions are received on a race course or elsewhere, commits an offence.

Penalty: \$1 000.

”

**New section inserted**

**80.** The principal Act is amended by inserting, after section 28B, the new section following —

“

**Non-application of sections 28D and 28E**

**28F.** (1) The provisions of sections 28D and 28E do not apply —

- (a) to the TAB, any manager, secretary, officer, employee or agent of the TAB, or to any

employee of the agent, in respect of any bet properly made through or with the TAB in accordance with this Act; or

- (b) to any person employed in connection with a totalisator in respect of the transmission to a totalisator of any such bets made through the TAB.

(2) Notwithstanding the provisions of any other Act it shall be lawful —

- (a) to communicate information from —
- (i) a race course; or
- (ii) a venue at which a sporting event, on or in relation to which bookmaking is approved under section 4B, is held,
- to a totalisator agency for or in connection with the payment or crediting of dividends to persons making bets through the TAB; or
- (b) to broadcast information as to the amount of dividends payable on any race or sporting event on which bets have been made through or with the TAB, after those dividends have been declared on the totalisator or by the TAB.

”.

**New section inserted**

**81.** The principal Act is amended by inserting, after section 28B, the new section following —

“

**Penalty for accepting bets after closing time**

**28G.** Any manager, secretary, officer, employee or agent of the TAB, or any employee of the agent, who

receives or permits to be received any bets in respect of any race or sporting event after the time, as notified by the race club or other body conducting the race or sporting event, for the starting of that race or sporting event, commits an offence.

Penalty: \$2 500.

”.

**Section 30A amended**

82. Section 30A of the principal Act is amended —

(a) in paragraph (a), by inserting, after the paragraph designation, the following —

“  
if the offence occurred prior to the coming into operation of section 42 of the *Acts Amendment (Racing and Betting Legislation) Act 1995* and was

”;

and

(b) in paragraph (b), by inserting, after the paragraph designation, the following —

“ otherwise, ”.

**Section 31 amended**

83. Section 31 (1) of the principal Act is amended, in paragraph (b) (iii), by inserting, after “bet”, the following —

“  
other than a bet made by telephone in accordance with the regulations

”.



*Betting Act 1960* in relation to a totalisator, so far as they are applicable, apply in relation to bets made through the TAB on that totalisator as if the bets were made directly into the totalisator, and regulations 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 TAB and transmitted to a totalisator.

(3) In subsection (2), “rules” include —

- (a) rules made by the TAB under section 15 of the *Totalisator Agency Board Betting Act 1960*;
- (b) by-laws having effect under *The Western Australian Turf Club Act 1892* or under the *Western Australian Trotting Association Act 1946*;
- (c) rules having effect under the *Western Australian Greyhound Racing Association Act 1981*; and
- (d) by-laws, rules or regulations made by a racing club under the *Associations Incorporation Act 1895*, the *Associations Incorporation Act 1987*, or any other written law.

**Section 34 amended**

**85.** Section 34 of the principal Act is amended —

- (a) in paragraph (a), by inserting, after “that Act”, the following —

“

*, the Totalisator Agency Board Betting  
Act 1960*

”;

and

- (b) in paragraph (b), at the end, by inserting, after “control of betting”, the following —

“

*or in relation to the possession, operation  
or use of totalisators*

”.

**Section 35 repealed**

**86.** Section 35 of the principal Act is repealed.

**PART 4 — BOOKMAKERS BETTING TAX ACT 1954**

**Principal Act**

87. In this Part the *Bookmakers Betting Tax Act 1954\** is referred to as the principal Act.

[\* *Reprinted as at 24 March 1971.*

*For subsequent amendments see 1994 Index to  
Legislation of Western Australia, Table 1, p. 20.]*

**Long title amended**

88. The long title to the principal Act is amended by deleting “Tax” and substituting the following —

“ Levy ”.

**Section 1 amended**

89. Section 1 of the principal Act is amended by deleting “*Tax Act, 1954-1970*” and substituting the following —

“ *Levy Act 1954* ”.

**Section 2 amended**

90. Section 2 of the principal Act is amended by deleting “tax” and substituting the following —

“ levy ”.

**PART 5 — TOTALISATOR DUTY ACT 1905**

**Principal Act**

**91.** In this Part the *Totalisator Duty Act 1905\** is referred to as the principal Act.

[\* *Reprinted as at 1 April 1963.*

*For subsequent amendments see 1994 Index to  
Legislation of Western Australia, Table 1, pp. 215-6.]*

**Repeal of the principal Act**

**92.** The principal Act is repealed.

**PART 6 — CONSEQUENTIAL AMENDMENTS**

**Amendment of *Financial Administration and Audit Act 1985***

**93.** Schedule 1 to the *Financial Administration and Audit Act 1985*\* is amended by inserting in the appropriate alphabetical position the following —

“ Betting Control Board. ”.

[\* *Reprinted as at 1 July 1991.*

*Schedule 1 reprinted as at 26 August 1994.*

*For subsequent amendments see 1994 Index to Legislation of Western Australia, Table 1, pp. 74-5 and Acts Nos. 2, 11 and 24 of 1995 and Gazettes of 18 August 1995 and 19 September 1995.]*

**Amendment of *Parliamentary Commissioner Act 1971***

**94.** The Schedule to the *Parliamentary Commissioner Act 1971*\* is amended by inserting in the appropriate alphabetical position the following —

“

Betting Control Board constituted under the *Betting Control Act 1954*.

”.

[\* *Reprinted as at 21 October 1992.*

*For subsequent amendments see 1994 Index to Legislation of Western Australia, Table 1, pp. 155-6 and Act No. 11 of 1995.]*