

WESTERN AUSTRALIA

ACTS AMENDMENT (RACING INDUSTRY) ACT

No. 66 of 1988

AN ACT to amend the *Racecourse Development Act 1976*, the *Totalisator Agency Board Betting Act 1960*, the *Totalisator Agency Board Betting Tax Act 1960*, the *Totalisator Duty Act 1905*, and the *Totalisator Regulation Act 1911* and for related purposes.

[Assented to 22 December 1988.]

The Parliament of Western Australia enacts as follows:

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Acts Amendment (Racing Industry) Act 1988*.

Commencement

2. (1) Subject to subsections (2), (3) and (4), the provisions of this Act shall be deemed to have come into operation on 1 August 1988.

(2) Sections 14, 24, 25 and 26 shall come into operation on such day as is, or days as are respectively, fixed by proclamation.

(3) Sections 3 to 10, 12, 13, 15, 16, 17, 19, 20, 23, 27 and 28 shall come into operation on the day on which this Act receives the Royal Assent.

(4) Section 22 (a), (b) and (c) shall come into operation on 1 January 1989.

PART 2—RACECOURSE DEVELOPMENT ACT 1976**Principal Act**

3. In this Part the *Racecourse Development Act 1976** is referred to as the principal Act.

[*Act No. 72 of 1976 as amended by Act No. 98 of 1985.]

Section 4 amended

4. Section 4 of the principal Act is amended—

(a) by repealing subsection (2) and substituting the following subsections—

“ (2) The members of the Trust are—

(a) a chairman appointed by the Minister;

(b) one person appointed by the Minister;

(c) a person nominated by the Club and appointed by the Minister;

(d) a person nominated by the Association and appointed by the Minister; and

(e) the Chief Executive Officer of the Office of Racing and Gaming or a person nominated in writing by that Chief Executive Officer.

(2a) A nomination for the purposes of subsection (2) (e) may be made from time to time and may be expressed to operate for a period or in such circumstances as are specified in the instrument of nomination.

(2b) The person holding office as the Chairman of the Trust and the persons holding the offices referred to in subsection (2) (c) and (d) at the coming into operation of section 4 of the *Acts Amendment (Racing Industry) Act 1988*, and their deputies, shall continue to hold their respective offices until the expiry of their respective terms, subject to this Act and their terms of appointment, and shall be eligible for reappointment. ”.

(b) in subsection (3) by inserting after “this Act, the” the following—

“ appointed ”;

(c) by repealing subsection (4);

(d) by repealing subsection (5) and substituting the following subsection—

“ (5) The Minister may—

(a) appoint persons to be deputies of the members referred to in subsection (2) (b) and (e);

(b) appoint a person nominated by the Club for that purpose to be the deputy of the member referred to in subsection (2) (c); and

(c) appoint a person nominated by the Association for that purpose to be the deputy of the member referred to in subsection (2) (d),

and at any meeting of the Trust at which a member is not present, the deputy of the member may exercise all the powers and functions of the member. ”;

(e) in subsection (6)—

(i) by deleting “persons or bodies who or” and substituting the following—

“ bodies ”;

- (ii) by deleting “the person or body” and substituting the following—
 - “ the body ”; and
- (iii) by deleting “he or it wishes” and substituting the following—
 - “ it wishes ”;
- (f) in subsection (7) by deleting “person or”; and
- (g) in subsection (8) by deleting “Members of the Trust referred to in paragraphs (c) and (d) of subsection (2) of this section” and substituting the following—
 - “ Appointed members of the Trust ”.

Section 5 amended

5. Section 5 of the principal Act is amended in subsection (1)—

- (a) by deleting “office of a member” and substituting the following—
 - “ office of an appointed member ”; and
- (b) by deleting “nominated for appointment by the appropriate person or body” and substituting the following—
 - “ nominated, in the case of an office referred to in section 4 (2) (c) or (d), for appointment by the appropriate body ”.

Section 6 amended

6. Section 6 of the principal Act is amended in subsection (3)—

- (a) by deleting paragraph (a) and substituting the following paragraph—
 - “ (a) the Chairman, if present, shall preside, but if the Chairman is not present, the members present at the meeting shall appoint one of their number to preside at the meeting; ”;

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

“ 4 ”; and

(c) in paragraph (e) by deleting “, his deputy”.

Section 8 repealed and a section substituted

7. Section 8 of the principal Act is repealed and a section is substituted—

Staff

“ 8. For the purposes of assisting it in the discharge of its functions under this Act, the Trust may—

(a) appoint a secretary and such other staff as it considers necessary; and

(b) with the approval of the Board, utilize the services of officers and facilities of the Board. ”.

Section 9 amended

8. Section 9 of the principal Act is amended by deleting “a secretary of the Trust” and substituting the following—

“ a secretary or member of the staff of the Trust ”.

Section 10 amended

9. Section 10 of the principal Act is amended—

(a) by repealing subsection (2) and substituting the following subsection—

“ (2) There shall be paid into the Fund—

(a) by the Treasurer, an amount equal to 25% of the moneys paid to him under section 23A (1) of the *Totalisator Agency Board Betting Act 1960* by the Board by way of unclaimed dividends and refunds

which originally became payable in respect of bets made on horse races in the period 1 November 1987 to 31 December 1987;

- (b) by the Board, moneys payable under section 23A (2) (a) of the *Totalisator Agency Board Betting Act 1960*;
- (c) by the Board, an amount of \$1 million as required under section 28AA of the *Totalisator Agency Board Betting Act 1960*;
- (d) all moneys being repayments of loans made from the Fund to racing clubs;
- (e) all moneys paid by way of interest charged on or in connection with loans made from the Fund to racing clubs;
- (f) income from the investment of moneys in the Fund pursuant to subsection (5);
- (g) any other moneys lawfully payable to the Fund;

and

- (h) any moneys, being grants, bequests or donations, made to the Fund. ”; and

- (b) by repealing subsections (3), (4) and (6).

Section 11 amended

10. Section 11 of the principal Act is amended by deleting paragraph (b).

PART 3—TOTALISATOR AGENCY BOARD BETTING ACT 1960

Principal Act

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

[*Reprinted as approved 22 January 1979 and amended by Acts Nos. 48 and 98 of 1985 and 113 and 125 of 1987.]

Section 3 amended

12. Section 3 of the principal Act is amended by inserting, in the appropriate alphabetical positions, the following definitions—

“novelty bet” means a bet of a kind prescribed as a novelty bet and known by a prescribed designation;

“racing year” means the period of 12 months commencing on 1 August and ending on the immediately succeeding 31 July;

“WAGRA” means the Western Australian Greyhound Racing Association established under the *Western Australian Greyhound Racing Association Act 1981*. ”.

Section 20 amended

13. Section 20 of the principal Act is amended—

(a) in subsection (1)—

(i) by inserting after paragraph (a) the following paragraph—

“ (aa) for novelty bets by way of wagering or gaming in respect of such races as are selected by the Board, being races conducted on race courses in the State or on such race courses outside the State as are prescribed to be lodged with and received by or on behalf of the Board—

(i) for transmission of the bets by the Board to a totalisator on a race course within the State; or

(ii) to be placed by the Board in a totalisator pool conducted by it on those races in accordance with this Act,

at the Board’s discretion; ”;

- (ii) by deleting paragraph (ba);
- (iii) by deleting “and” at the end of paragraph (c); and
- (iv) by inserting after paragraph (c) the following—

“ (ca) for bets by way of wagering or gaming, including novelty bets, in respect of such races as are selected by the Board, being races conducted on race courses in the State or on such race courses outside the State as are prescribed to be lodged with and received by or on behalf of the Board to be transmitted by the Board to a totalisator operated outside the State by a statutory body that is authorized to accept such bets; and ”;

and

- (b) by repealing subsection (5).

Section 21A inserted

14. After section 21 of the principal Act the following section is inserted—

Bets transmitted from racing club to Board

“ 21A. Every bet received and transmitted by a racing club to a totalisator pool conducted by the Board shall be received and dealt with by the Board on behalf of that club in accordance with the regulations. ”.

Section 22 amended

15. Section 22 of the principal Act is amended—

- (a) in subsection (1) by deleting “paragraph (a) or (b) of subsection (1) of section twenty of this Act” and substituting the following—

“ section 20 (1) (a),(aa) (i) or (b) ”;

- (b) in subsection (3) by deleting “paragraph (ba) of subsection (1) of section twenty of this Act” and substituting the following—

“ section 20 (1) (aa) (ii) ”; and

- (c) by inserting after subsection (3) the following subsection—

“ (3a) All moneys payable by way of dividend in respect of any bet referred to in section 20 (1) (ca) shall be paid by the Board in accordance with the regulations. ”.

Section 23A amended

16. Section 23A of the principal Act is amended—

- (a) by inserting after the section designation “23A.” the subsection designation “(1)”;

- (b) by inserting after “dividends and refunds” the following—

“ in respect of bets made on horse races before 1 January 1988 ”; and

- (c) by inserting the following subsection—

“ (2) All moneys payable by way of dividends and refunds by the Board which are unclaimed for 7 months by any person entitled to the moneys, other than moneys which are credited by the Board to a credit account established with it under this Act, shall be paid by the Board, not later than the last operating day of the month following the period of 7 months referred to in this subsection—

- (a) into the Racecourse Development Trust Fund established and maintained under the *Racecourse Development Act 1976*, in the case of—

(i) unclaimed dividends and refunds in respect of bets made on or after 1 January 1988 on horse races; and

(ii) a proportion, determined by the Board, of unclaimed dividends in respect of novelty bets known as favourite numbers bets made on or after 1 January 1988;

(b) to WAGRA, in the case of—

- (i) unclaimed dividends and refunds in respect of bets made on or after 1 January 1988 on greyhound races; and
- (ii) that proportion of unclaimed dividends in respect of novelty bets known as favourite numbers bets made on or after 1 January 1988 remaining after deducting the proportion referred to in paragraph (a) (ii);

and

- (c) into the Totalisator Agency Board Sports Betting Account in the case of unclaimed dividends and refunds in respect of bets made on or after 1 January 1988 on sporting events referred to in section 19A,

and thereafter the owner of the money has no enforceable claim in respect of the money. ”.

Section 24 amended

17. Section 24 of the principal Act is amended—

- (a) by inserting after “is received by the Board” the following—

“ for transmission to a totalisator ”;

- (b) in paragraph (a) by deleting “paragraph (b) of this subsection” and substituting the following—

“ paragraphs (b) and (c) ”; and

- (c) in paragraph (b) by deleting “for a place,” and substituting the following—

“ for a place;

- (c) where the bet made on the totalisator was a novelty bet—the amount prescribed as the commission for that novelty bet, ”.

Section 27 repealed

18. Section 27 of the principal Act is repealed.

Section 28 amended

19. Section 28 of the principal Act is amended—

(a) in subsection (1)—

(i) by deleting “and” at the end of paragraph (d); and

(ii) by deleting paragraph (e) and substituting the following paragraphs—

“ (e) to WAGRA the total of the amounts of commission retained by the Board in respect of bets referred to in section 20 (1) (aa) and (c) and of commission and duty received by the Board under section 24, in respect of greyhound races after deducting all amounts of the kind referred to in paragraphs (c) and (d) of this subsection applicable to greyhound races; and

(f) the amount required to be paid under section 28AA, ”;

(b) by repealing subsections (2) and (3) and substituting the following subsections—

“ (2) Subject to subsection (3a), the amount to be paid to the Club by the Board from the balance of its funds remaining as provided in subsection (1) shall be—

(a) prior to 1 August 1989, such amount as is equal to 60% thereof;

(b) for the period commencing 1 August 1989 and ending 31 July 1990—

(i) an amount equal to 62% of moneys received by the Board in respect of bets on horse races run in the State and held in that balance; and

(ii) an amount equal to 61% of moneys received by the Board in respect of bets on horse races run outside the State and held in that balance;

- (c) for the period commencing 1 August 1990 and ending 31 July 1991—
 - (i) an amount equal to 64% of moneys received by the Board in respect of bets on horse races run in the State and held in that balance; and
 - (ii) an amount equal to 62% of moneys received by the Board in respect of bets on horse races run outside the State and held in that balance;
- (d) for the period commencing 1 August 1991 and ending 31 July 1992—
 - (i) an amount equal to 66% of moneys received by the Board in respect of bets on horse races run in the State and held in that balance; and
 - (ii) an amount equal to 63% of moneys received by the Board in respect of bets on horse races run outside the State and held in that balance;
- (e) for the period commencing 1 August 1992 and ending 31 July 1993—
 - (i) an amount equal to 68% of moneys received by the Board in respect of bets on horse races run in the State and held in that balance; and
 - (ii) an amount equal to 64% of moneys received by the Board in respect of bets on horse races run outside the State and held in that balance;
- (f) for the period commencing 1 August 1993 and ending 31 July 1994—
 - (i) an amount equal to 70% of moneys received by the Board in respect of bets on horse races run in the State and held in that balance; and
 - (ii) an amount equal to 65% of moneys received by the Board in respect of bets on horse races run outside the State and held in that balance;

- (g) for the period commencing 1 August 1994 and ending 31 July 1995—
 - (i) an amount equal to 70% of moneys received by the Board in respect of bets on horse races run in the State and held in that balance; and
 - (ii) an amount equal to 66% of moneys received by the Board in respect of bets on horse races run outside the State and held in that balance;
- (h) for the period commencing 1 August 1995 and ending 31 July 1996—
 - (i) an amount equal to 70% of moneys received by the Board in respect of bets on horse races run in the State and held in that balance; and
 - (ii) an amount equal to 67% of moneys received by the Board in respect of bets on horse races run outside the State and held in that balance;
- (i) for the period commencing 1 August 1996 and ending 31 July 1997—
 - (i) an amount equal to 70% of moneys received by the Board in respect of bets on horse races run in the State and held in that balance; and
 - (ii) an amount equal to 68% of moneys received by the Board in respect of bets on horse races run outside the State and held in that balance;
- (j) for the period commencing 1 August 1997 and ending 31 July 1998—
 - (i) an amount equal to 70% of moneys received by the Board in respect of bets on horse races run in the State and held in that balance; and
 - (ii) an amount equal to 69% of moneys received by the Board in respect of bets on horse races run outside the State and held in that balance;

and

- (k) for each racing year after 31 July 1998, an amount equal to 70% of all moneys received by the Board in respect of bets on horse races and held in that balance.

(3) Subject to subsection (3a), the amount to be paid to the Association by the Board from the balance of its funds remaining as provided in subsection (1) shall be—

- (a) prior to 1 August 1989, such amount as is equal to 40% thereof;
- (b) for the period commencing 1 August 1989 and ending 31 July 1990—
 - (i) an amount equal to 38% of moneys received by the Board in respect of bets on horse races run in the State and held in that balance; and
 - (ii) an amount equal to 39% of moneys received by the Board in respect of bets on horse races run outside the State and held in that balance;
- (c) for the period commencing 1 August 1990 and ending 31 July 1991—
 - (i) an amount equal to 36% of moneys received by the Board in respect of bets on horse races run in the State and held in that balance; and
 - (ii) an amount equal to 38% of moneys received by the Board in respect of bets on horse races run outside the State and held in that balance;
- (d) for the period commencing 1 August 1991 and ending 31 July 1992—
 - (i) an amount equal to 34% of moneys received by the Board in respect of bets on horse races run in the State and held in that balance; and
 - (ii) an amount equal to 37% of moneys received by the Board in respect of bets on horse races run outside the State and held in that balance;

- (e) for the period commencing 1 August 1992 and ending 31 July 1993—
 - (i) an amount equal to 32% of moneys received by the Board in respect of bets on horse races run in the State and held in that balance; and
 - (ii) an amount equal to 36% of moneys received by the Board in respect of bets on horse races run outside the State and held in that balance;
- (f) for the period commencing 1 August 1993 and ending 31 July 1994—
 - (i) an amount equal to 30% of moneys received by the Board in respect of bets on horse races run in the State and held in that balance; and
 - (ii) an amount equal to 35% of moneys received by the Board in respect of bets on horse races run outside the State and held in that balance;
- (g) for the period commencing 1 August 1994 and ending 31 July 1995—
 - (i) an amount equal to 30% of moneys received by the Board in respect of bets on horse races run in the State and held in that balance; and
 - (ii) an amount equal to 34% of moneys received by the Board in respect of bets on horse races run outside the State and held in that balance;
- (h) for the period commencing 1 August 1995 and ending 31 July 1996—
 - (i) an amount equal to 30% of moneys received by the Board in respect of bets on horse races run in the State and held in that balance; and
 - (ii) an amount equal to 33% of moneys received by the Board in respect of bets on horse races run outside the State and held in that balance;

- (i) for the period commencing 1 August 1996 and ending 31 July 1997—
 - (i) an amount equal to 30% of moneys received by the Board in respect of bets on horse races run in the State and held in that balance; and
 - (ii) an amount equal to 32% of moneys received by the Board in respect of bets on horse races run outside the State and held in that balance;
- (j) for the period commencing 1 August 1997 and ending 31 July 1998—
 - (i) an amount equal to 30% of moneys received by the Board in respect of bets on horse races run in the State and held in that balance; and
 - (ii) an amount equal to 31% of moneys received by the Board in respect of bets on horse races run outside the State and held in that balance; and
- (k) for each racing year after 31 July 1998, an amount equal to 30% of all moneys received by the Board in respect of bets on horse races and held in that balance.

(3a) Notwithstanding subsections (2) and (3), where, of the moneys received by the Board in a racing year in respect of bets on horse races run in the State, the percentage of those moneys received in respect of bets on trotting races run in the State is greater than—

- (a) the percentage specified in subsection (3) (a) or (k); or
- (b) the percentage specified in subsection (3) (b), (c), (d), (e), (f), (g), (h), (i) or (j) in relation to bets on horse races run in the State,

as the case may be, with respect to that first-mentioned racing year, the Board shall—

- (c) increase the percentage, or percentages as the case requires, of moneys to be paid to the Association for that racing year to equal the percentage of

moneys received by the Board in that racing year in respect of bets on trotting races run in the State; and

- (d) decrease the percentage, or percentages as the case requires, of moneys to be paid to the Club accordingly.

Section 28AA inserted

20. Before section 28A of the principal Act the following section is inserted—

Allocation of certain funds in 1988/89

“ 28AA.(1) The Board shall, from moneys received by it in respect of bets made in accordance with this Act, pay \$1 million into the Racecourse Development Trust Fund established and maintained under the *Racecourse Development Act 1976*.

(2) The payment referred to in subsection (1) shall be made in 10 instalments of \$83 333, commencing 5 days after the coming into operation of this section, and one final instalment of the balance of the moneys, payable not later than 31 July 1989. ”.

PART 4—TOTALISATOR AGENCY BOARD BETTING TAX ACT 1960

Section 2 amended

21. Section 2 of the *Totalisator Agency Board Betting Tax Act 1960** is amended by deleting “7” and substituting the following—

“ 6 ”.

[*Act No. 54 of 1960 as amended by Acts Nos. 59 of 1966, 78 of 1970 and 15 of 1983.]

PART 5—TOTALISATOR DUTY ACT 1905

Section 3 amended

22. Section 3 of the *Totalisator Duty Act 1905** is amended—

- (a) in subsection (1) by deleting “7.5%” wherever it occurs in paragraphs (a), (b) and (c) and substituting in each case the following—

“ 6.5% ”;

(b) in subsection (1a) by deleting “3.5%” and substituting the following—

“ 2.5% ”;

(c) in subsection (1b) by deleting “5.5%” and substituting the following—

“ 4.5% ”; and

(d) by repealing subsection (4).

[*Reprinted as approved 1 April 1963 and amended by Acts Nos. 21 of 1970, 68 and 94 of 1972 (as amended by No. 19 of 1973) and 29 of 1984.]

PART 6—TOTALISATOR REGULATION ACT 1911

Principal Act

23. In this Part the *Totalisator Regulation Act 1911** is referred to as the principal Act.

[*Reprinted as approved 17 August 1982 and amended by Act No. 4 of 1987.]

Section 2 amended

24. Section 2 of the principal Act is amended—

(a) by inserting before the definition of “Club” the following definition—

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

(b) in the definition of “Club” by deleting “section fourteen” and substituting the following—

“ sections 12 and 14 ”; and

(c) by deleting the definition of “prescribed”.

Section 3 amended

25. Section 3 of the principal Act is amended by repealing subsection (2) and substituting the following subsection—

“ (2) Subject to subsection (2a) a totalisator licence shall, whilst in force, authorize the club holding the same, its servants and agents—

- (a) to have, use and play with one totalisator or the number of totalisators mentioned in the licence on a race-course specified in the licence during and for the purpose of any and every race-meeting held by the club on such course; and
- (b) to do such other acts and things as are prescribed with respect to the transmission of bets received by the club to a totalisator pool operated by another club, by The Western Australian Turf Club or a club or company, incorporated or otherwise, registered by The Western Australian Turf Club, or by the Board.

Section 12 repealed and a section substituted

26. Section 12 of the principal Act is repealed and the following section is substituted—

Regulations

“ 12. (1) The Governor may make regulations with regard to all or any matters which by this Act are required or permitted to be prescribed or which it may be necessary or convenient to regulate for giving effect to this Act and in particular—

- (a) regulating and controlling the manner in which, and conditions under which, bets may be received by a club and transmitted to a totalisator pool operated by another club or the Board;
- (b) regulating and controlling the receipt by a club of bets transmitted to a totalisator pool operated by that club;
- (c) providing for the payment at or from a club of dividends payable in respect of bets transmitted by that club to a totalisator pool operated by another club or the Board, and the times at which and the manner in which the dividends may be paid;
- (d) providing for the transmission of bets to officers, agents or employees of clubs for inclusion in totalisator pools;

- (e) providing for the method of accounting as between clubs and between clubs and the Board in respect of bets received and transmitted to another club or the Board under this Act, and in respect of dividends; and
- (f) providing for the imposition of a penalty not exceeding \$1 000 for the breach of any regulation.

(2) In subsection (1) "club" includes The Western Australian Turf Club and every club or company, incorporated or otherwise, registered by The Western Australian Turf Club.

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

- (a) the provisions of regulations having effect under this Act; and
- (b) the provisions of any rules made by the Board having effect under the *Totalisator Agency Board Betting Act 1960* or by-laws having effect under *The Western Australian Turf Club Act 1892* or under the *Western Australian Trotting Association Act 1946*, or rules having effect under the *Western Australian Greyhound Racing Association Act 1981*, or by-laws, rules or regulations made by a club under the *Associations Incorporation Act 1987*, or any other Act,

the provisions referred to in paragraph (a) prevail. ”.

Section 13 repealed

27. Section 13 of the principal Act is repealed.

PART 7—TRANSITIONAL

Refunds

28. The Commissioner of State Taxation appointed under the *Public Service Act 1978* shall—

- (a) refund to the Board any amount of Totalisator Agency Board betting tax paid to the Commissioner on moneys received by the Board on or after 1 August 1988 and before the coming into operation of this section that is in excess of the amount required to be paid under section 25 of the *Totalisator Agency Board Betting Act 1960* and section 2 of the *Totalisator Agency Board Betting Tax Act 1960* as amended by this Act; and
- (b) refund to a racing club any amount of duty paid by that racing club to the Commissioner under section 3 (4) of the *Totalisator Duty Act 1905* upon the gross takings of a totalisator taken on or after 1 August 1988.