



Western Australia

Kalgoorlie and Boulder Racing Clubs Act 1904

Compare between:

[14 Jun 2007, 01-e0-02] and [28 Jun 2007, 01-f0-06]

Kalgoorlie and Boulder Racing Clubs Act 1904

An Act to enable the members of “The Kalgoorlie Racing Club” and of “The Boulder Racing Club” to sue and be sued in the name of the chairman for the time being of each of such clubs and for other purposes.

Preamble

Whereas by Crown lease dated 23 January 1900 registered Volume CLXXXVI. Folio 77 Her Majesty demised and leased unto Patrick Whelan Licensed Victualler Walter Gibson Medical Practitioner and Robert Gibson Mining Engineer all of Kalgoorlie and the survivor of them and the executors administrators and assigns of the survivor the natural surface and so much of the land as is below the natural surface to a depth of 40 feet of all that piece of land situate and being in the District of Hampton in the State of Western Australia containing 200 acres more or less and distinguished in the maps and books of the Department of Lands and Surveys² of the said State as Hampton Location 2 and bounded by lines starting from a point situate East 28 chains 44 links and South 31 chains 58 links from the East corner of Kalgoorlie Town Lot R495 and extending 199° 18' 50 chains one link partly along Maxwell Street thence 289° 18' 40 chains thence 19° 17' 50 chains and thence 109° 17' 40 chains one link to the starting point All bearings being true or thereabouts the measurement more or less and a post placed at each corner of the location as the same is delineated in the plan drawn in the margin of the said lease together with all easements and appurtenances to the said piece of land belonging or appertaining to hold the premises thereby demised or expressed so to be unto the said Patrick Whelan Walter Gibson and Robert Gibson and the survivor of them and the executors administrators and assigns of the survivor (hereinafter and hereinafter called “**the Lessees**”) as trustees for the “Kalgoorlie Race Club” from 1 October 1898 for the term of 99 years thence ensuing

yielding and paying therefor one peppercorn of yearly rent on 25 March in each year or so soon thereafter as the same should be lawfully demanded And by the said lease it is expressly provided that the said piece of land should during the said term be used by the lessees solely for the purposes of the said "Kalgoorlie Race Club" and for no other purpose whatsoever without the licence in writing of Her Majesty her heirs and successors first obtained And that if the lessees at any time during the said term should make default in payment of the rent thereinbefore reserved if demanded or should without such licence as aforesaid use the land otherwise than for the purposes for which it had been demised it should be lawful for Her Majesty her heirs and successors unto and upon the said land or any part thereof in the name of the whole to re-enter and the same to have again repossess and enjoy as if the said lease had not been executed And by the said lease it was also provided that it should at all times be lawful for Her Majesty her heirs and successors or for any person or persons acting in that behalf by her or their authority to resume and enter upon possession of any part of the said lands which it might at any time by her heirs and successors be deemed necessary to resume for roads tramways railway station bridges canals towing paths harbour or river improvement works drainage or irrigation works quarries and generally for any other works or purposes of public use utility or convenience and for the purposes of exercising the power to search for minerals and gems thereafter reserved and such land so resumed to hold to Her Majesty her heirs and successors as of her or their former estate without making to the said lessees their heirs and assigns any compensation in respect thereof so nevertheless that no such resumption should be made of any part of the said land upon which any buildings or improvements may have been made by the lessees without compensation And by the said lease it was also provided that it should be lawful at all times for Her Majesty her heirs and successors or for any person or persons acting in that behalf by her or their authority to cut and take away any indigenous timber and to search and dig for and carry away any stones or other materials which might be required for the purposes therein set out without making to the lessees their heirs or assigns any compensation in respect thereof And the said lease saved and reserved to Her Majesty her heirs and successors all mines of gold silver copper tin or other metals ore and mineral and other substances containing metals

and all gems and precious stones and coal or mineral oil in and under the said land to search and dig for and carry away the same and for that purpose to enter upon the said land or any part thereof And whereas by transfer registered 1 May 1900 No. 1444/1900 the said lease was transferred to Patrick Whelan Robert Gibson and John Albert O'Meehan of Kalgoorlie and now stands in their names And whereas by Crown leases dated 19 July 1899 registered Volume CLXXIII. Folio 137 and 9 May 1902 registered Volume CCXLIV. Folio 31 Her Majesty demised and leased unto John Marquis Hopkins William Thomas Rabbish and Alfred Hopper DeBaun and the survivor of them and the executors administrators and assigns of the survivor the natural surface and so much of the land as is below the natural surface to a depth of 40 feet respectively of all that piece of land situate and being in the District of Hampton in the State of Western Australia containing 140 acres more or less and distinguished in the maps and books of the Department of Lands and Surveys² of the said State as Boulder Town Lot 660 and bounded by lines starting from a point situate West one chain 50 links from the North-West corner of Boulder Town Lot 304 and extending 179° 59' 27 chains along a public street thence 269° 59' 5 chains and three-tenths of a link thence 179° 59' 5 chains 25 links thence 269° 59' 39 chains 53 links thence 359° 59' 32 chains 25 links and thence 89° 59' 44 chains 53 links to the starting point and all that piece of land being Boulder Town Lot 1551 and bounded on the South by 5 chains and three-tenths of a link of Dwyer Street on the East by 5 chains 25 links of Keegan Street and by opposite boundaries parallel and equal as the same are delineated in the plans drawn in the margin of the said lease registered Volume CLXXIII. Folio 137 and Volume CCXLIV. Folio 31 respectively together with all easements and appurtenances to the said piece of land belonging or appertaining to hold the premises thereby demised or expressed so to be unto the said John Marquis Hopkins William Thomas Rabbish and Alfred Hopper DeBaun and the survivor of them and the executors administrators and assigns of the survivors thereafter called "the lessees" as trustees for the "Boulder Race Club" from 1 April 1899 and 1 January 1902 respectively for the term of 99 years thence next ensuing at the rent and subject to provisos conditions stipulations and reservations similar to those contained in the said hereinbefore firstly recited leases and whereas with the consent of the said trustees thereof

the committee of the “Kalgoorlie Race Club” have now the control and management of the land comprised in the said firstly hereinbefore recited lease and the course and buildings thereon and whereas with the consent of the said trustees thereof the committee of the “Boulder Race Club” have now the control and management of the land comprised in the said secondly hereinbefore recited leases and the course and buildings thereon and whereas each of the said clubs has expended very considerable sums of money in erecting improving and maintaining the course and divers good and substantial buildings erections and fences on the said land so held by them respectively as aforesaid and each of the said clubs proposes from time to time to expend still further sums in further improving the said course and erecting additional buildings on the land so held as aforesaid and whereas the powers and authorities conferred on the said clubs by the said leases so held by each of them respectively as aforesaid do not enable such club to control and conduct the use of and dealings with the land contained therein so fully and effectually as is desired and whereas for the management of the affairs of each of the said clubs and the better maintenance and control of the racecourses so held as aforesaid and the buildings now or hereafter to be erected thereon and to enable each of the said clubs to more fully perform its functions and to more adequately control the use of the said land and improve the same it is desirable that each of the said clubs should be permitted to surrender the lease or leases so held by it as aforesaid and to accept in lieu thereof a grant of fee simple or for any less estate or a lease for any term of years of the land contained in the lease so surrendered and any other land contiguous thereto and to hold and acquire any other lands in fee-simple or on lease in the said State which either of such clubs may desire to hold and that provision should be made for the investment of the funds and capital of each club and that all such powers and authorities as may be necessary or expedient for all or any of such purposes should be conferred upon each of the said clubs

Be it therefore enacted by the King’s Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative

Assembly of Western Australia in this present Parliament assembled and
by the authority of the same as follows:

1. Short title

This Act may be cited for all purposes as the *Kalgoorlie and Boulder Racing Clubs Act 1904*¹.

[Section 1 amended by No. 74 of 2003 s. 138(1).]

2. Interpretation

In the construction of this Act unless the context otherwise requires —

“**Building**” means any house outhouse stand booth stable shed tent fence or other buildings railways and tramways edifice or erection of any description whatsoever for the time being standing or being vested under or by virtue of this Act in a chairman.

“**Chairman**” means and includes the person who is the chairman for the time being of the Committee.

“**Club**” shall mean the Kalgoorlie-Boulder Racing Club.

“**Committee**” means the Committee for the time being of the Club.

“**Justice**” means a justice of the peace having jurisdiction where the matter requiring the cognisance of such justice shall arise.

“**Minister for Lands**” means the responsible Minister for the time being charged with the administration of the *Land Administration Act 1997* or any modification or re-enactment thereof.

[Section 2 amended by 2° Elizabeth II, 1953 (Private) s. 4; No. 59 of 2000 s. 51; No. 60 of 2006 s. 138.]

3. Actions to be in the name of the chairman

All actions suits prosecutions and proceedings at law or in equity by or against a club shall and may be lawfully brought or defended in the name of the chairman of such club and in all indictments and informations it shall be lawful to state the

property of the club to be the property of such chairman and any offence committed with intent to injure or defraud the club shall and lawfully may in any prosecution for the same be stated or said to have been committed with intent to injure or defraud the chairman and any offender or offenders may thereupon be lawfully convicted of any such offence and the death resignation or removal or other act of such chairman shall not abate any such action suit or proceeding but the same may be concluded in the name of any person who may be or become chairman Nothing herein contained shall interfere with or affect any action suit prosecution or other proceeding commenced before the passing of this Act but the same shall be continued as if this Act had not been passed.

4. Memorial of the chairman's name and members of the committee to be recorded in the Supreme Court

A memorial of the name of the chairman and of the members of the committee of a club in the form or to the effect set forth in the Schedule to this Act signed by such chairman shall be recorded upon oath in the Supreme Court of the State of Western Australia within one calendar month after the passing of this Act and when and so often as any chairman or member of the committee shall be newly elected a memorial of the name of such newly elected chairman or member in the same form and to the same effect as the above mentioned memorial signed by such newly elected chairman or in the case of a newly elected member of the committee by the chairman shall in like manner be recorded upon oath in the said Supreme Court within one calendar month next after every such chairman or member shall be elected and for all purposes whatsoever the production of the memorial recorded as by this Act directed or of an office or examined copy thereof shall be received as sufficient and conclusive evidence in all courts of justice or before any person having by law or by consent of parties authority to receive evidence of all the matters contained or set forth in such memorial and the names of the Kalgoorlie Racing Club or the

Boulder Racing Club shall be inserted in such schedule as the circumstances of the case require.

5. No action to be brought until memorial is recorded

Until such memorial as hereinbefore first mentioned shall be recorded in the manner herein directed no action suit or other proceeding shall be brought by a club or any of the members thereof in the name of the chairman of the committee thereof under the authority of this Act.

6. Proceedings to be instituted against chairman

All proceedings claims and demands in respect or arising out of anything done or omitted by the chairman or committee or stewards of either of the said clubs in the exercise or attempted exercise of his or their office or performance or attempted performance of his or their duties shall be brought and instituted against the chairman of such club.

7. Judgment against chairman

Every judgment and every decree or order which shall be at any time after the passing of this Act obtained against the chairman on behalf of the club of which he is chairman for or in respect of any principal moneys or interest due and payable under any mortgage made by either of the clubs under the provisions of this Act shall and may take effect and be enforced and execution thereon be issued against the land property and effects of such club.

8. Effect of judgment against the chairman

Every judgment and every decree or order which shall be at any time after the passing of this Act obtained against the chairman on behalf of the club of which he is chairman other than those made in respect of mortgages as provided in the last preceding section shall and may take effect and be enforced and execution thereon be issued against the property and effects of such club save and except the land by this Act vested in the chairman and

his successors in office and any land hereafter granted to the chairman under and by virtue of this Act.

9. Racecourses vested in chairman

From and after the passing of this Act the said Patrick Whelan Robert Gibson and John Albert O'Meehan the present registered proprietors of Crown lease dated 23 January 1902 registered Volume CLXXXVI. Folio 77 and John Marquis Hopkins William Thomas Rabbish and Alfred Hopper DeBaun the present registered proprietors of Crown leases dated 19 July 1889 and registered Volume CLXXIII. Folio 137 and 9 May 1902 registered Volume CCXLIV. Folio 31 respectively and the respective executors administrators and assigns or other the trustees for the time being of the land included in the said Crown leases respectively shall cease to have or hold any estate or interest in such land and without the necessity for any conveyance or other connecting title than this Act the land comprised in the said Crown lease registered Volume CLXXXVI. Folio 77 is hereby vested in the chairman and his successors in office of the Kalgoorlie Racing Club in trust for the said club and the land comprised in the said Crown leases registered respectively Volume CLXXIII. Folio 137 and Volume CCXLIV. Folio 31 are hereby vested in the chairman and his successors in office of the Boulder Racing Club in trust for the said club The said land is vested in like manner as if such chairman respectively and his respective successors in such office were in law a corporation sole and shall henceforth be held by such chairman respectively and his successors in office for the term and upon and for the trusts intents and purposes and with under and subject to the powers provisos and declarations in the said Crown leases respectively limited expressed declared and contained of and concerning the said land respectively or such of them as are now subsisting or capable of taking effect.

10. Chairman may surrender leases

It shall be lawful for a chairman to surrender to the Crown the lease or leases of the land so vested in him as aforesaid and for His Majesty to accept such surrender.

11. Crown may devise lands to chairman

It shall be lawful for His Majesty from time to time to demise to the chairman for any term of years in trust for the club of which he shall be chairman and for such chairman and his successors in office to hold by such demise from His Majesty for the purposes of this Act the said land by section 9 vested in him and his successors in office and such other lands in Western Australia either contiguous thereto or otherwise as the Governor in Council may think fit.

12. Lands and other property to be vested in chairman

All lands tenements and hereditaments and all personal chattels and effects which now are vested in or held by any person or persons whomsoever in trust for or for the benefit of a club or the members thereof shall immediately upon the passing of this Act become and be vested in and be held by the chairman and his successors in such office in trust for such club and in the like manner as if such chairman and his respective successors in such office were in law a corporation sole and as if the personalty were real estate and all lands tenements and hereditaments and all personal chattels and effects which may hereafter be contracted for or be acquired by or belong to the club of which he is chairman or the members thereof collectively may be conveyed assigned and assured to and shall thereupon become vested in such chairman and his successors in such office in trust for the club and in like manner as if such chairman and his respective successors in such office were in law a corporation sole and as if the personalty were real estate.

13. Lands vested in chairman to be held for the purposes of the club

The lands by this Act vested in or authorised to be granted or demised to the chairman or held by him shall be held by such chairman and his successors in office only for the purpose of being maintained and used for the purposes of the club under and subject to the provisions of this Act and any by-laws to be made under and by virtue hereof and save as herein expressly provided shall not be used demised or let for building purposes or unless with the permission in writing of the Minister for Lands first had and obtained for any other purpose whatsoever.

14. Lands already demised to be held for the purposes of the club

The lands demised by the said Crown leases shall notwithstanding the expiration or sooner determination of the term created by the said leases or either of them or by any demise hereafter to be made thereof be and remain vested in and held by the chairman for the purpose in the last preceding section mentioned subject only to the rights of His Majesty his heirs and successors.

15. Buildings may be maintained and erected

The committee of a club may maintain any buildings now standing and being upon the said land hereby vested in the chairman thereof and may from time to time build or erect upon the said land or any other land for the time being vested in the chairman either in addition to or substitution for the building now standing thereon all such other buildings as may in the opinion of the committee be necessary or expedient for or in connection with the use of the said land for the purposes of the club.

16. Committees may make by-laws

The committee of a club may with the approval of the Governor from time to time subject to the provisions of this Act make repeal or alter by-laws for giving effect to this Act in respect of

the land so held by the chairman thereof as aforesaid and in particular —

- (a) Providing for the constitution of a club and the entrance fee and subscription to be paid by members.
- (b) Regulating the election or admission of members into a club and the expulsion of members therefrom.
- (c) Providing for the due management of the affairs of the club including the appointment of a committee and officers defining powers proceedings and duties thereof.
- (d) Regulating all matters concerned or connected with the land by this Act vested or which may hereafter be vested in the chairman and the admission thereto and expulsion therefrom of members of a club and the public respectively and the rates and charges to be paid for such admission.
- (e) For the general management of the said racecourse.
- (f) Prescribing the scale of tolls and charges from time to time to be levied or taken for admission to any lands vested in the chairman as aforesaid or buildings thereon.
- (g) Providing for the demand recovery and receipt of such tolls and charges from any person coming upon such lands or buildings and the conditions under which he shall be allowed to remain thereon and the exemption of members for the payment of same.
- (h) Providing for the expenditure and distribution by the committee of the funds and revenue of the club.

Providing that such by-laws be not repugnant to the laws of the State or to the provisions of this Act.

And provided, further, that before such by-laws shall be submitted for the approval of the Governor, the same shall have been confirmed by a resolution supported by at least two-thirds of the members of a club present and entitled to vote at a general meeting of the members of the club convened for the purpose of considering such by-laws.

17. Disallowance of by-laws by Governor in Council

No by-law shall be of any force or effect until the expiration of one month after the same or a copy thereof signed by the chairman shall have been sent to the Chief Secretary³ of Western Australia for the time being and until publication as hereinafter mentioned and at any time within the said period of one month the Governor may disallow such by-law and after such disallowance such by-law shall not come into operation.

[Section 17 amended by No. 8 of 1925 s. 2.]

18. Publication of by-laws

Every by-law shall forthwith on the expiration of one month after the same shall have been sent as aforesaid if not disallowed within that time be published in the *Government Gazette* together with a notice stating when such by-law was sent to the Chief Secretary³ and that such by-law has not been disallowed and such by-law shall come into operation upon such publication.

[Section 18 amended by No. 8 of 1925 s. 2.]

19. Effect of by-laws

Such by-laws when published shall have the force of law and a person who contravenes any of them commits an offence and is liable to a penalty not exceeding \$20.

[Section 19 amended by No. 113 of 1965 s. 8(1); No. 59 of 2004 s. 141.]

20. Evidence of by-law

The production of a copy of the *Government Gazette* containing any such by-law shall be conclusive evidence that such by-law was duly made and published.

21. Summary interference by member of committee or officer of the club

If the infraction or non-observance of any by-law be attended with danger or annoyance to the public or hindrance to the committee or any of the officials or servants of the club or the public in the lawful use of the said racecourse it shall be lawful for the committee or any member officer or servant thereof summarily to interfere to obviate or remove such danger annoyance or hindrance and that without prejudice to any penalty incurred by the infraction of any such by-law or otherwise.

22. Obstructing officers etc. of committee or trespass upon racecourse

Whosoever shall wilfully obstruct or impede any officer servant or agent of the committee in the execution of his duty upon any land for the time being vested in a chairman or upon or in any building or premises connected therewith or wilfully trespass upon any such land buildings or premises or remove or wilfully injure any building enclosure post tree or shrub upon any such land or who shall refuse to leave the racecourse of the club upon being requested so to do by an official of the club and upon being tendered the amount paid by him for admission to the said racecourse shall commit an offence and be liable, over and above the amount of the injury done, to a penalty not exceeding \$20.

[Section 22 amended by No. 113 of 1965 s. 8(1); No. 59 of 2004 s. 141.]

23. Offender may be arrested

Any member officer or servant of a committee and all persons called by him to his assistance may seize and detain any person who shall have committed any offence against the provisions of this Act or of the by-laws made thereunder and whose name and residence shall not be given to such member officer or servant upon his requiring the same to be given and give such offender in charge to a police constable who shall who shall deal with him according to law.

[Section 23 amended by No. 59 of 2004 s. 141.]

24. Liability to penalty not to relieve from other liabilities

Notwithstanding the liability of any person to any penalty under the provisions of this Act or of the by-laws made under this Act he shall not be relieved from any other liability to which he would have been subject if this Act had not been passed.

25. Chairman may let lands buildings or tolls

A chairman may demise and to farm let either from year to year or for any lesser term than a year but not to exceed 3 years or for any particular race meeting or meetings the whole or any portion of the land for the time being vested in the chairman or any buildings erected thereon or all or any of the tolls and charges demandable under and by virtue of this Act and the lessee his collectors servants and agents shall have the same powers of demanding recovering and receiving the said tolls and charges as are hereby given to the committee and the chairman on the direction of the committee may transfer sell or assign any lands vested in him under this Act or which may be hereafter acquired by the club other than the lands forming the racecourses of the clubs being Hampton Location No. 2 and Boulder Town Lots 660 and 1551 vested in him under this Act.

26. Power to borrow money

A chairman may from time to time borrow and take up at interest any sum or sums of money on the security of the whole or any portion of any lands for the time being vested in him under the provisions hereof or on the credit of the rents and profits tolls charges and other revenue of a club and the money so borrowed shall be applied to the permanent improvement of the lands thereof for the purposes of the club or in the erection maintenance and repair of buildings or in providing change for conducting the operation and working of the club's totalisator at the racecourse of the club on any of the days on which racing shall take place at such racecourse under the control and

management of the club or for the purpose of maintaining and controlling the said racecourses, and carrying on racing thereon, and providing stakes or prize-money, and for other purposes incidental thereto or in the planting of trees or shrubs upon the said lands or in such other manner in or upon the said lands as shall be necessary or expedient for the purpose of rendering the same more convenient and useful for such purpose as aforesaid Provided that except for providing money change for conducting the operation and working of the club's totalisator as aforesaid no money shall be borrowed under this section without the concurrence of three-fourths of the members for the time being of the club present and voting at a properly constituted meeting of the members of such club and in no case without the consent in writing of the Governor for the time being of the said State acting with the advice of the Executive Council.

[Section 26 amended by No. 8 of 1926 s. 2; 2° Elizabeth II 1953 (Private) s. 5.]

27. Power to mortgage

For securing the repayment of any moneys borrowed as aforesaid with interest thereon the chairman shall have power with the consent in writing of the Governor for the time being of the said State acting with the advice of the Executive Council to mortgage the said land and hereditaments or any portion thereof for any term of years and to assign by way of mortgage or charge the rents profits tolls charges and other revenue of the Club as security to the person or persons advancing the amount of such loan and either with or without a power of sale and leasing respectively in case of default being made in the payment of the principal and interest moneys at the time or times therein to be appointed for the payment thereof respectively and with or without a power of distress appointment of receiver and such other accompanying powers clauses and provisions as shall be deemed expedient and to give receipts for the moneys so to be advanced And the said lands

hereditaments and premises so to be mortgaged shall thenceforth be held and enjoyed by the mortgagee or mortgagees his her or their heirs and assigns freed and absolutely discharged from the trusts to which the same may for the time being be subject.

28. No personal covenant

No covenant proviso or other matter or thing contained in any such mortgage deed or deeds or in this Act shall be deemed or construed to impose upon a chairman or the members of a club his or their executors administrators or assigns any personal responsibility for the repayment of the moneys advanced or of any interest to accrue due thereon.

29. No obligation on purchaser or mortgagee to make inquiries

Nothing herein contained shall be deemed or construed to make it necessary for any purchaser or mortgagee to inquire whether the chairman of such club for the time being was duly and regularly appointed or whether the concurrence of the members of such club in any such loan has been duly and regularly obtained as aforesaid or whether the said power of sale and mortgage were duly and regularly exercised or in anywise to see to the application of any moneys raised under the authority of this Act or to inquire into the necessity regularity or propriety of any such mortgage or mortgages or to be effected by notice that the same is or are irregular unnecessary or improper.

30. Power to re-borrow

If after having borrowed any part of the moneys so as aforesaid authorised to be borrowed the same or any part thereof be paid off it shall be lawful for the chairman with the consent in writing of the Governor for the time being of the said State acting with the advice of the Executive Council again to borrow the amount so paid off and so from time to time.

31. Minister for Lands may authorise inspection of racecourse and buildings

The Minister for Lands may when he thinks fit authorise any proper person to inspect the whole or any part of the land for the time being vested in the chairman and all or any buildings thereon and the person so authorised on producing (if required) to any member officer or servant of the committee requiring the same his authority may at all reasonable times enter upon and examine the said land and the buildings erected and being thereon and may exercise all such powers and authorities as may be required for the purpose of such inspection.

32. Minister for Lands may give notice to repair, etc.

If the person so as aforesaid authorised to inspect the said land premises and buildings certify under his hand to the Minister for Lands that in his opinion the surface of the said land or any part thereof is imperfectly kept in order for the purpose of a public racecourse or that any building thereon is in want of repair or is unsafe to the public or in any other respect improper or unfit for use and which said certificate shall contain a detailed statement of all such defects and want of repair the Minister for Lands may by notice in writing under his hand addressed to the chairman require the committee within a reasonable time after receipt of such notice well and sufficiently to repair and make good all or any of such defects and want of repair.

33. Service of notice

Every such notice with a true copy of such certificate as aforesaid shall be personally served upon the chairman or some member or officer of the committee and a true copy of such notice shall be fixed upon some part of the land or buildings the subject of such notice and every such notice so served as aforesaid and a copy of which shall have been so fixed as aforesaid shall be deemed to have been duly served.

34. Committee to repair, etc., upon notice

The committee shall within a reasonable time after service of such notice in manner aforesaid well and sufficiently repair and make good all such defects and want of repair mentioned in the said certificate as by the said notice they shall be required to do.

35. Officer to give security

Before any person entrusted with the security custody or control of moneys whether treasurer collector or other officer of the Club other than totalisator officials shall enter upon his office the committee shall take sufficient security from him for the faithful execution of his office.

36. Accounts to be kept

The committee shall have the sole control of and regulate the expenditure of the funds and revenue of the Club and shall cause full and accurate accounts to be kept of all sums of money received or expended on account of the Club and of the matters and things for which sums of money shall have been received or expended.

37. Appointment of auditors

The Minister for Lands may from time to time appoint an auditor for the purpose of auditing the accounts of the Club and such auditor may from time to time remove at pleasure.

38. Books to be balanced and audited

The books of the Club shall in each and every year be balanced up to and inclusive of a date in each year to be fixed from time to time by the by-laws of the Club and forthwith on the books being so balanced an annual account shall be made up which shall exhibit a true statement of the total receipts and expenditure of the club during the year immediately preceding such date with a statement of the balance of such account and such books and account shall be examined and audited by the

auditor so to be appointed as aforesaid and the balance and account shall be certified by the chairman and by such auditor as aforesaid.

[Section 38 amended by No. 53 of 1912 s. 2.]

[39. *Repealed by No. 40 of 1998 s. 17.]*

40. Club not to be incorporated

Nothing herein contained shall extend or be deemed taken or construed to extend to incorporate the Club or the members thereof or to relieve or discharge them or any of them from any responsibility duties contracts or obligations whatsoever which they would be subject or liable to either between the Club and others or between the individual members of the Club or any of them if this Act had not been passed.

41. If racecourse not maintained and used land to revert to the Crown

If at any time after the passing of this Act the lands by this Act vested in or authorised to be demised to the chairman shall save and except with the consent of the Governor in Council given before the expiration of the period of 12 months hereafter mentioned cease for the period of 12 months at any one and the same time to be maintained and used for the purposes of the Club or if without the consent of the Governor in Council the said lands or any part thereof shall be used or applied for or to any other purpose than for the purposes of the Club then and in either of such cases such part of the said land so ceasing to be maintained and used or so used or applied as aforesaid as the case may be shall at the end of the said period of 12 months revert to His Majesty his heirs and successors for the benefit of the public.

42. Buildings to be paid for if possession resumed

Except upon a reversion to His Majesty in pursuance of the next preceding section His Majesty his heirs or successors shall not

be entitled to take or resume possession of the lands by this Act vested or authorised to be vested in the chairman without previously paying to the chairman in trust for the Club the value of all buildings then erected or being upon such lands such value to be determined in case of dispute in the manner in which disputed compensation for land is required to be determined by the *Public Works Act 1902*.

43. Saving of rights

Save as herein expressly provided nothing in this Act contained shall be deemed to affect or apply to any right title or interest of His Majesty his heirs or successors or of any body politic or corporate or of any person excepting such as are mentioned in this Act and those claiming by from or under them respectively.

Schedule

THE CLUB.

Memorial of the name of the chairman of the committee of
to be recorded in the Supreme Court of the State of Western
Australia pursuant to an Act of the Parliament of Western Australia passed in
the year of the reign of His Majesty King Edward VII. No. .

A. B., Chairman.

C. D.,
E. F., } Committee.
etc. }

(Signed) A. B., Chairman.

I G. H. of make oath and say that I was present and did
see the foregoing memorial signed by the above-named chairman and that the
said is chairman of the above-mentioned club.

Sworn this day of 20 }
before me }

Notes

- ¹ This is a compilation of the *Kalgoorlie and Boulder Racing Clubs Act 1904* and includes the amendments made by the other written laws referred to in the following table ^{4,6}. The table also contains information about any reprint.

Compilation table

Short title	Number and year	Assent	Commencement
<i>The Kalgoorlie and Boulder Racing Clubs Act 1904</i> ⁵	1904 (4 Edw. VII)	24 Dec 1904	24 Dec 1904
<i>Kalgoorlie and Boulder Racing Clubs Act Amendment Act 1912</i>	53 of 1912	24 Dec 1912	24 Dec 1912
<i>Ministers' Titles Act 1925</i> s. 2	8 of 1925	24 Sep 1925	24 Sep 1925
<i>Kalgoorlie and Boulder Racing Clubs Act Amendment Act 1926</i>	8 of 1926	7 Oct 1926	7 Oct 1926
<i>Kalgoorlie and Boulder Racing Clubs Act Amendment Act 1953</i>	2° Eliz. II (Private Act) (as amended by No. 74 of 2003 s. 138(2))	3 Nov 1953	3 Nov 1953
<i>Decimal Currency Act 1965</i>	113 of 1965	21 Dec 1965	s. 4-9: 14 Feb 1966 (see s. 2(2)); balance: 21 Dec 1965 (see s. 2(1))
<i>Acts Repeal and Amendment (Births, Deaths and Marriages Registration) Act 1998</i> s. 17	40 of 1998	30 Oct 1998	14 Apr 1999 (see s. 2 and <i>Gazette</i> 9 Apr 1999 p. 1433)
<i>Land Administration Amendment Act 2000</i> s. 51	59 of 2000	7 Dec 2000	10 Apr 2001 (see s. 2(2) and <i>Gazette</i> 10 Apr 2001 p. 2073)
<i>Statutes (Repeals and Minor Amendments) Act 2003</i> s. 138(1)	74 of 2003	15 Dec 2003	15 Dec 2003 (see s. 2)
Reprint 1: The Kalgoorlie and Boulder Racing Clubs Act 1904 as at 7 May 2004 (includes amendments listed above)			

Courts Legislation Amendment and Repeal Act 2004 s. 141 59 of 2004 23 Nov 2004 1 May 2005 (see s. 2 and *Gazette* 31 Dec 2004 p. 7128)

Land Information Authority Act 2006 s. 138 60 of 2006 16 Nov 2006 1 Jan 2007 (see s. 2(1) and *Gazette* 8 Dec 2006 p. 5369)

[This Act was repealed by the Racing, Wagering and Betting Legislation Amendment and Repeal Act 2007 \(No. 8 of 2007\) s. 18\(a\) as at 28 Jun 2007](#)

- ² The department formerly known as the Department of Lands and Surveys was replaced by the Western Australian Land Information Authority. Documents formerly held by the Department are now held by the Authority (see the *Land Information Authority Act 2006* s. 100).
- ³ Under the *Alteration of Statutory Designations Order (No. 4) 1983* references in any law to the Chief Secretary shall be read and construed as references to the Minister for Racing and Gaming.
- ⁴ This Act is to be read as one with the *Kalgoorlie and Boulder Racing Clubs Act Amendment Act 1953*.
- ⁵ Now known as the *Kalgoorlie and Boulder Racing Clubs Act 1904*; the short title was changed (see note under s. 1).
- ⁶ The *Racing, Wagering and Betting Legislation Amendment and Repeal Act 2007* Pt. 4 reads as follows:

“

Part 4 — Incorporation of Kalgoorlie Boulder Racing Club and repeal of *Kalgoorlie and Boulder Racing Clubs Act 1904* and the *Kalgoorlie and Boulder Racing Clubs Act Amendment Act 1953*

Division 1 — Incorporation and repeal

14. Meaning of terms used in this Part

- (1) Terms used in this Part have the same meaning as in the *Kalgoorlie and Boulder Racing Clubs Act 1904*.
- (2) In this Part —
“**incorporated Club**” means the Club after it is incorporated as an association under the *Associations Incorporation Act 1987*.

15. Power to incorporate under the *Associations Incorporation Act 1987*

- (1) The Club may become incorporated as an association under the *Associations Incorporation Act 1987*.
- (2) If the Club becomes incorporated as an association, nothing in the *Kalgoorlie and Boulder Racing Clubs Act 1904* or the *Kalgoorlie and Boulder Racing Clubs Act Amendment Act 1953* prevents the real and personal property that is vested in and held by the chairman under those Acts from vesting in the incorporated Club under the *Associations Incorporation Act 1987* section 11.

16. Application for incorporation as an association

The *Associations Incorporation Act 1987* sections 5(2)(b)(iii), 6, 7 and 9(1)(d) do not apply to an application by the Club to become incorporated as an association under that Act.

17. Exemption from stamp duty

- (1) In this section —
“**property of the Club**” means the real and personal property held by any person for or on behalf of the Club.
- (2) Duty under the *Stamp Act 1921* is not payable on an instrument executed for the purpose of vesting or registering the property of the Club in the incorporated Club.

18. Repeals

On the Club becoming incorporated as an association under the *Associations Incorporation Act 1987* —

- (a) the *Kalgoorlie and Boulder Racing Clubs Act 1904*; and
- (b) the *Kalgoorlie and Boulder Racing Clubs Act Amendment Act 1953*; and
- (c) the *Kalgoorlie-Boulder Racing Club By-laws 2004*; and
- (d) the *Kalgoorlie-Boulder Racing Club By-laws Notice 2004*,

are repealed.

Division 2 — Transitional and savings provisions

19. *Interpretation Act 1984* not affected

The provisions of this Division do not prejudice or affect the application of the *Interpretation Act 1984* to and in relation to the repeals effected by section 18.

20. Effect of incorporation on licence, permit or approval

A licence, permit or approval issued or given to the Club under a written law and in force immediately before the Club is incorporated under the *Associations Incorporation Act 1987* continues in force as if the licence, permit or approval, when issued or given, were issued or given to the incorporated Club.

21. Chairman's liabilities incurred prior to incorporation to transfer to incorporated Club

- (1) A liability incurred by the chairman by or on behalf of the Club and existing immediately before the Club is incorporated under the *Associations Incorporation Act 1987* becomes a liability of and exercisable against the incorporated Club.
- (2) This section operates despite the *Associations Incorporation Act 1987* section 10(c).

22. Powers in relation to transitional provision

- (1) If there is no sufficient provision in this Part for dealing with a transitional matter, regulations under this section may prescribe all matters that are required or necessary or convenient to be prescribed for dealing with the matter.
- (2) Regulations made under subsection (1) may provide that specified provisions of this Part —
 - (a) do not apply; or
 - (b) apply with specified modifications,to or in relation to any matter.
- (3) If regulations under subsection (1) provide that a specified state of affairs is taken to have existed, or not to have existed, on and from a day that is earlier than the day on which the regulations are published in the *Gazette* but not earlier than the day this section comes into operation, the regulations have effect according to their terms.
- (4) In subsections (2) and (3) —
“specified” means specified or described in the regulations.
- (5) If regulations contain a provision referred to in subsection (3), the provision does not operate so as to —
 - (a) affect in a manner prejudicial to any person (other than the State) the right of that person existing before the day of publication of those regulations; or
 - (b) impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or

omitted to be done before the day of publication of those regulations.

”