



Western Australia

Betting Control Act 1954

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Western Australia

Betting Control Act 1954

An Act to authorise, regulate and control, betting and bookmaking on horse and greyhound racing and on sporting events; to regulate the assessment, collection, and allocation of a levy on money paid or promised to bookmakers, other betting operators or RWWA as consideration for bets; to authorise, regulate and control the use of totalisators and betting with, or through, RWWA; and for other purposes.

[Long title amended by No. 49 of 1960 s. 3; No. 77 of 1976 s. 3; No. 63 of 1995 s. 42; No. 35 of 2003 s. 75; No. 70 of 2006 s. 4; No. 29 of 2009 s. 4.]

Part 1 — Preliminary

[Heading inserted by No. 35 of 2003 s. 101(1).]

1. Short title

This Act may be cited as the *Betting Control Act 1954*¹.

2. Commencement

This Act shall come into operation on a day to be fixed by proclamation¹.

[Section 2 amended by No. 77 of 1976 s. 4.]

[3. Deleted by No. 11 of 1992 s. 26.]

4. Terms used in this Act

(1) In this Act unless the context requires otherwise —

ADI means an authorised deposit-taking institution as defined in section 5 of the *Banking Act 1959* of the Commonwealth;

approval means an approval under section 27D(2);

approved area, in relation to race course, means an area approved by the committee or other authority controlling that race course as a place where betting to which section 4B applies may be carried on;

authorisation means an authorisation under section 27F that has effect;

authorised officer has the meaning given to that term in the *Gaming and Wagering Commission Act 1987*;

betting exchange has the meaning given to that term in section 4AA;

betting material includes —

- (a) any list, card, board, racebook, ticket, voucher or other record of any race or sporting event or any betting transaction; and
- (b) any accounts or accounting record,

however compiled, recorded or stored, and any computer or other machine, used in the course of, or in relation to, betting;

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 a licensed manager, an employee or agent of another person), and who holds a current bookmaker's licence, but does not include any officer, agent or employee of RWWA when acting for and on behalf of RWWA;

Commission means the Gaming and Wagering Commission established under the *Gaming and Wagering Commission Act 1987*;

condition, in relation to a licence, includes —

- (a) a limitation, restriction or prohibition; and
- (b) any other provision of that licence affecting the authorisation conferred,

whether or not it purports to be expressed by way of a condition;

consideration used in relation to bets has the meaning attributed in the interpretation, *to bet*;

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

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

domestic betting operator means a person who in this State or another State or a Territory is authorised under a law of that State or Territory to engage in or conduct the business of betting on races;

employee means a person employed by a bookmaker as the agent or substitute of that bookmaker or otherwise for the purpose of the carrying on of the business of the bookmaker, whether or not that person receives remuneration in any form from the bookmaker;

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

fixed odds bet has the meaning given to that term in the RWWA Act;

licence means a licence issued under this Act;

licensed employee means the holder of a bookmaker's employee licence issued under section 11;

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

machine includes any computer or other apparatus or device, and any electrical, electronic, mechanical or other equipment or contrivance constructed or adapted for use in or in relation to betting;

metropolitan region has the meaning given to that term in the *Planning and Development Act 2005* section 4;

money includes bank notes, bank drafts, cheques and any other orders, warrants, authorities, or requests, for the payment of money;

offshore betting operator means a person who is authorised under the law of a jurisdiction outside Australia to engage in or conduct the business of betting on races or sporting events;

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

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;

possession includes having under control in any place whatever whether for the use or benefit of the person of whom the term is used or of another person, and notwithstanding that another

person has the actual possession or custody of the thing in question;

public place includes any part of any place, used, or available for use, by the public, and includes a road, street, lane, footpath, thoroughfare, cul de sac, doorway, convenience, reserve, or part of any of them;

race means a race of any kind by horses whether ridden or driven or by greyhounds, but does not include a race conducted as a trial;

race course means a race course used for races;

race meeting means a meeting at which races are held;

racing club means a body which conducts race meetings;

record means —

- (a) any book, account, document, financial records (within the meaning of the *Corporations Act 2001* of the Commonwealth), paper, return, register or other source of information compiled, recorded or stored in written form or on microfilm, or by electronic or other means or process;
- (b) the contents, in a printout or other intelligible format, of records that are kept, by computer or otherwise, in a format that is not readily intelligible; and
- (c) any other sources of information prescribed for the purposes of this definition;

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

RWWA means Racing and Wagering Western Australia established under the RWWA Act;

RWWA Act means the *Racing and Wagering Western Australia Act 2003*;

steward means a steward appointed under the RWWA Act;

ticket means a betting ticket or a totalisator ticket;

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to bet means to pay or deliver, or promise or agree to pay or deliver, or to receive or agree or promise to receive, any money or other property for the consideration for —

- (a) an assurance, undertaking, promise, or agreement, express or implied, to pay or give thereafter any money or other property on any event or contingency of or relating to any race or any sporting event in relation to which betting is authorised under this Act; or
- (b) securing the paying or giving by some other person of any money or other property on any such event or contingency;

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

totalisator agency means any totalisator agency established by RWWA, and includes any premises on which bets on a race or sporting event may be made on a totalisator through or with RWWA;

WA race field means information that identifies, or is capable of identifying, the names or numbers of the horses or greyhounds —

- (a) that have been nominated for, or that will otherwise take part in, an intended race to be conducted in this State; or
 - (b) that have been scratched or withdrawn from an intended race to be conducted in this State.
- (1a) The Commission may by notice published in the *Gazette* —
- (a) approve a class of sporting events (excluding races but including foot-races) for the purposes of section 4A; and
 - (b) amend or revoke such an approval.
- (2) In this Act unless the context otherwise requires, a reference —
- (a) to a bookmaker, includes a reference to a licensed employee acting as the agent of or substitute for the bookmaker;

- (aa) to a bookmaker, includes a reference to a licensed manager acting under section 11D(5);
 - (b) to a ticket includes a reference to a ticket which is produced or issued by a computer or other machine used to facilitate the betting; and
 - (c) to writing includes a reference to the printing of a ticket, form or other record produced by a computer or other machine so used.
- (3) For the purposes of this Act, a person occupies a position of authority in a body corporate if that person —
- (a) is a director of the body corporate;
 - (b) exercises or exerts, or is in a position to exercise or exert, control or substantial influence over the body corporate in the conduct of its affairs;
 - (c) in the case of a public company, has a controlling interest in the company; or
 - (d) in the case of a proprietary company, is a shareholder in the company.

[Section 4 amended by No. 49 of 1960 s. 4; No. 21 of 1970 s. 48; No. 77 of 1976 s. 5; No. 6 of 1987 s. 4; No. 11 of 1992 s. 27 and 29; No. 63 of 1995 s. 43; No. 17 of 1998 s. 4; No. 40 of 1999 s. 31; No. 10 of 2001 s. 22; No. 13 of 2002 s. 4; No. 35 of 2003 s. 76, 102 and 103; No. 38 of 2005 s. 15; No. 70 of 2006 s. 5; No. 29 of 2009 s. 5.]

4AA. Meaning of “betting exchange”

In this Act —

betting exchange means a facility, electronic or otherwise, that enables persons —

- (a) to place or accept, through the operator of the betting exchange, bets with other persons; or

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- (b) to place with the operator of the betting exchange bets that, on acceptance, are matched with opposing bets placed with and accepted by the operator,

but does not include a facility, electronic or otherwise, that enables persons to place bets only with a bookmaker or a totalisator.

[Section 4AA inserted by No. 70 of 2006 s. 6.]

4A. Application of this Act to certain sporting events other than races

- (1) This Act applies to and in relation to a designated sporting event conducted by a permittee at a registered place as though —
 - (a) the designated sporting event were a race;
 - (b) the permittee were a racing club; and
 - (c) the registered place were a race course.
- (2) A person who desires to conduct a designated sporting event at a registered place shall —
 - (a) apply to the Commission in a form approved by the Commission for the grant of a permit; and
 - (b) indicate in that application the place at which the designated sporting event is to be conducted under the permit by that person.
- (3) An application under subsection (2) shall be accompanied by such information as is prescribed, and the applicant shall furnish the Commission with such additional information as the Commission directs.
- (4) The Commission may —
 - (a) grant a permit applied for under subsection (2) and, if the place at which the designated sporting event is to be conducted under the permit by the applicant is not already registered under this subsection in respect of designated sporting events of the class to which the

designated sporting event belongs, register that place in respect of designated sporting events of that class;

- (b) refuse to grant a permit applied for under subsection (2); or
- (c) defer consideration of an application under subsection (2),

as the Commission thinks fit.

- (5) The Commission may, with respect to a permit, impose conditions, restrictions and prohibitions in relation to the permittee or the registered place or both.
- (6) A permittee or other person shall not contravene any condition, restriction or prohibition imposed under subsection (5).
Penalty: \$500.
- (7) The Commission may, whether or not a person is convicted of an offence under subsection (6), cancel or suspend a permit if the Commission is satisfied that any condition, restriction or prohibition imposed under subsection (5) with respect to the permit has not been complied with.
- (8) In this section —
permit means permit granted under subsection (4).

[Section 4A inserted by No. 17 of 1998 s. 5(1); amended by No. 13 of 2002 s. 5; No. 35 of 2003 s. 102.]

4B. Application of this Act to sporting events

- (1) This Act applies to the conduct of betting, by the holder of a bookmaker's licence endorsed to authorise such betting, on a sporting event or a contingency where bookmaking on that event, or that contingency, has been approved by the Commission under this section.
- (2) The Commission may approve bookmaking on or in relation to —

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- (a) any sporting event; or
 - (b) a specific contingency of, or relating to, such a sporting event.
- (3) An approval given under subsection (2) shall as soon as is practicable after it has been given be notified in the *Gazette*, and may be made subject to conditions, or to requirements as to the recording of bets, specified in that approval.
- (4) It shall be a condition deemed to be applicable to every approval under this section that the bookmaking is carried on —
- (a) at a race course; and
 - (b) subject to a permit having been granted or endorsed for betting of that kind by the committee or other authority controlling the race course,
- in accordance with section 12.
- (5) The Commission shall have the same functions, and may exercise like powers and perform like duties, in relation to betting on sporting events as in relation to a race.

[Section 4B inserted by No. 11 of 1992 s. 28; amended by No. 63 of 1995 s. 44; No. 17 of 1998 s. 6; No. 35 of 2003 s. 102.]

5. Legalisation of betting with bookmakers

- (1) Notwithstanding any law to the contrary, persons may, in accordance with this Act, lawfully bet by way of wagering or gaming on a race course —
- (a) on races; or
 - (b) on a sporting event or contingency, in accordance with section 4B,

and their so doing does not of itself constitute a contravention of the law, and is not a ground for the race course or any part of it being deemed or declared to be, or to be used as, a common

betting house or a common gaming house, or to be a common nuisance and contrary to the law.

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

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

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

- (2a) The Commission may, if —

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

amend or cancel that authority.

- (2b) The Commission shall cause —

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

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

- (3) No person is liable to prosecution or conviction under the *Gaming and Wagering Commission Act 1987*, by reason of anything done pursuant to this Act but, subject to this Act, the

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provisions of that Act relating to common gaming houses and common betting houses, or unlawful betting, have effect.

[Section 5 amended by No. 19 of 1960 s. 5; No. 28 of 1963 s. 2; No. 77 of 1976 s. 6; No. 78 of 1978 s. 3; No. 29 of 1985 s. 6; No. 34 of 1985 s. 4; No. 74 of 1987 s. 4; No. 11 of 1992 s. 30; No. 63 of 1995 s. 45; No. 14 of 1996 s. 4; No. 17 of 1998 s. 7(1); No. 35 of 2003 s. 77 and 102.]

5A. Communication and broadcasting of information

Despite the provisions of any other Act it is lawful —

- (a) to communicate information from a race course or a venue at which an event, including a sporting event, is held to a totalisator agency for or in connection with the payment or crediting of dividends or winnings to persons making bets through RWWA; or
- (b) in relation to a totalisator, to broadcast information as to the amount of dividends payable on any race or sporting event on which the bets have been made through or with RWWA, after those dividends have been declared on the totalisator or by RWWA.

[Section 5A inserted by No. 35 of 2003 s. 78.]

[6, 6A-6G, 7. Deleted by No. 35 of 2003 s. 79.]

[8. Deleted by No. 6 of 1987 s. 8]

[9, 10. Deleted by No. 35 of 2003 s. 79.]

Part 2 — Licences, approvals and permits

[Heading inserted by No. 35 of 2003 s. 101(2).]

11. Licences and approvals relating to bookmaking

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

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

- (2) On an application in a form approved by the Commission accompanied by the prescribed fee being lodged with the Commission, and on such supporting information as the Commission may direct being furnished to the satisfaction of the Commission, and in the case of an application for a bookmaker's licence subject also to section 11E(1) or (2), if the case requires, the Commission may grant the application and —
- (a) issue to the applicant a bookmaker's licence; or
 - (b) issue to the applicant, or renew, a bookmaker's manager licence or a bookmaker's employee licence.
- (3) A member or officer of the Commission may inspect and take copies of any records produced to the Commission under this Act, for use at the discretion of the Commission.

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- (4) The suspension, cancellation or surrender of a licence does not —
- (a) affect the validity of a bond or other security entered into for the purposes of this Act by the holder or former holder of the licence, which security shall continue to have effect until discharged by the Commission; or
 - (b) release the holder or former holder of the licence from any obligation in relation to a bet.
- (5) Where the holder of a licence is convicted of an offence under any other written law, or employs or engages in relation to the business carried on under the licence a person who is so convicted, the holder of the licence shall notify the Commission of the conviction within 7 days of becoming aware of the conviction and shall furnish to the Commission such information regarding that offence and the conviction as the Commission may require.
- (6) A body corporate or each person who is a member of a partnership that holds a bookmaker's licence shall —
- (a) within 7 days after any person becomes or ceases to be a person who occupies a position of authority in the body corporate or a member of the partnership, as the case may be, lodge with the Commission a notice or ensure that a notice is lodged stating the full name and usual residential address of that person and the fact that the person has become or ceased to be such a person or member; and
 - (b) in the month of July in each year lodge with the Commission a return in a form approved by the Commission or ensure that the return is so lodged.
- Penalty: \$1 000.
- (7) The annual return must state —
- (a) the full name and usual residential address of every person who on 30 June preceding the lodging of the return was a person who occupied a position of authority

in the body corporate or was a member of the partnership, as the case may be; and

- (b) any other prescribed matter.

[Section 11 inserted by No. 13 of 2002 s. 7; amended by No. 35 of 2003 s. 102.]

11A. Bookmaker's licence — natural person

- (1) When determining whether or not to approve an application by a natural person under section 11 for a bookmaker's licence, the Commission —
- (a) shall be satisfied that the applicant has knowledge of the business of bookmaking and the obligations of bookmakers under this Act;
 - (b) shall be satisfied that the applicant is not —
 - (i) a member of a partnership that holds a bookmaker's licence; or
 - (ii) a person who occupies a position of authority in a body corporate that holds a bookmaker's licence;
 - (c) shall be satisfied that the applicant is a fit and proper person and that no circumstances make it undesirable to grant a licence to that person; and
 - (d) may take into account not only the applicant but also the repute and background of persons suspected by the Commission to be associated with the applicant.
- (2) Subject to the provisions of this Act, a bookmaker's licence that is granted to a natural person, unless the licence is suspended or cancelled pursuant to a determination made administratively by the Commission in the exercise of prescribed disciplinary powers, remains current during the lifetime of the holder or until the licence is surrendered.
- (3) No bookmaker's licence held by a natural person shall be transferable or pass to the personal representative of a deceased

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licensee or be, or be capable of being treated as, an asset in or the subject of any partnership.

- (4) The Commission shall not grant a bookmaker's licence to a natural person if that person —
- (a) is under the age of 18 years; or
 - (b) is, according to the *Interpretation Act 1984* section 13D, a bankrupt.
- (5) A bookmaker's licence held by a natural person subject to, and in accordance with, the provisions of this Act and the terms and conditions of the licence, entitles the holder to carry on the business of a bookmaker —
- (a) in person, or through the agency of a licensed employee, upon a race course if the person holds a permit to do so from the committee or other authority controlling the race course; and
 - (b) in person, or through the agency of a licensed employee, at a place, upon an occasion and in respect of an event authorised under section 5(2).

[Section 11A inserted by No. 13 of 2002 s. 7; amended by No. 35 of 2003 s. 102; No. 18 of 2009 s. 11(2).]

11B. Bookmaker's licence — partnership

- (1) For a partnership to be, or to continue to be, licensed as a bookmaker under this Act, the Commission shall be satisfied —
- (a) if a member of the partnership is a body corporate, that the body corporate satisfies and continues to satisfy the matters in relation to which the Commission shall be satisfied under section 11C(1)(a) to (e);
 - (b) if a member of the partnership is a body corporate, that a person who occupies a position of authority in the body corporate satisfies and continues to satisfy the matters referred to in section 11C(3)(a) to (g);

- (c) that none of the members of the partnership is a member of another partnership that holds a bookmaker's licence;
 - (d) if the members of the partnership are all natural persons, that at least one member of the partnership has knowledge of the business of bookmaking and the obligations of bookmakers under this Act;
 - (e) that —
 - (i) none of the members of the partnership holds a bookmaker's licence; and
 - (ii) none of the members of the partnership is a person who holds a position of authority in a body corporate that holds a bookmaker's licence;and
 - (f) that each member of the partnership who is a natural person is a fit and proper person and that no circumstances make it undesirable to grant a licence to the partnership.
- (2) For the purpose of being satisfied as to the matters referred to in subsection (1)(f), the Commission may take into account not only the member of the partnership but also the repute and background of persons suspected by the Commission to be associated with the partnership or the members of the partnership who are natural persons.
- (3) The Commission shall not grant a bookmaker's licence to a partnership if a member of the partnership is a natural person who —
- (a) is under the age of 18 years; or
 - (b) is, according to the *Interpretation Act 1984* section 13D, a bankrupt.
- (4) A natural person shall not become a member of a partnership that holds a bookmaker's licence unless that person has been approved by the Commission to become a member of the partnership.

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Penalty: \$2 000.

- (5) When determining whether or not to approve a natural person to become a member of a partnership that holds a bookmaker's licence the Commission shall be satisfied that the person is a fit and proper person and that —
 - (a) the person is not a member of another partnership that holds a bookmaker's licence;
 - (b) the person does not hold a bookmaker's licence;
 - (c) the person does not hold a position of authority in a body corporate that holds a bookmaker's licence;
 - (d) the person is not under the age of 18 years; and
 - (e) the person is not, according to the *Interpretation Act 1984* section 13D, a bankrupt.
- (6) For the purpose of being satisfied that the person is a fit and proper person, the Commission may take into account not only the person but also the repute and background of persons suspected by the Commission to be associated with the person.
- (7) Subject to the provisions of this Act, a bookmaker's licence that is granted to a partnership, unless suspended or cancelled pursuant to a determination made administratively by the Commission in the exercise of prescribed disciplinary powers, remains current until the partnership is dissolved or until the licence is surrendered.
- (8) No bookmaker's licence held by a partnership shall be transferable or pass to the personal representative of a deceased partner.
- (9) A partnership that holds a bookmaker's licence can only carry on the business of a bookmaker by means of a licensed manager or licensed employee.
- (10) A bookmaker's licence held by a partnership subject to, and in accordance with, the provisions of this Act and the terms and conditions of the licence, entitles the partnership to carry on the business of a bookmaker —

- (a) upon a race course if the partnership holds a permit to do so from the committee or other authority controlling the race course; or
 - (b) at a place, upon an occasion and in respect of an event authorised under section 5(2).
- (11) Each person who is a member of a partnership that holds a bookmaker's licence shall ensure that the conduct of the business as a bookmaker by the partnership is not carried on personally otherwise than —
- (a) by a licensed manager; or
 - (b) by a licensed employee appointed to act as a licensed manager under subsection (12).

Penalty: \$5 000.

- (12) If a licensee that is a partnership does not have a licensed manager, the licensee may appoint a licensed employee to act as the licensed manager and to carry on the business of the licensee as a bookmaker for a period of not more than 28 days or such longer period as the Commission approves.
- (13) If a person ceases to be the licensed manager of a licensee that is a partnership, the person shall inform the Commission in writing within 7 days of so ceasing.
- Penalty: \$2 000.
- (14) If a person ceases to be the licensed manager of a licensee that is a partnership, each person who is a member of the partnership shall ensure that a new licensed manager is appointed within 28 days of the previous licensed manager ceasing to be the manager or within such longer period as the Commission has approved.

Penalty: \$5 000.

[Section 11B inserted by No. 13 of 2002 s. 7; amended by No. 35 of 2003 s. 102; No. 18 of 2009 s. 11(3) and (4).]

11C. Bookmaker's licences — body corporate

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- (1) For a body corporate to be, or to continue to be, licensed as a bookmaker under this Act, the Commission —
 - (a) shall be satisfied that the requirements set out in Schedule 3 are complied with in respect of that body corporate;
 - (b) shall be satisfied that none of the persons holding a position of authority in the body corporate —
 - (i) holds a bookmaker's licence;
 - (ii) is a member of a partnership that holds a bookmaker's licence;
 - (iii) is a person who holds a position of authority in another body corporate that holds a bookmaker's licence;
 - (iv) is under the age of 18 years; and
 - (v) is, according to the *Interpretation Act 1984* section 13D, a bankrupt;
 - (c) shall be satisfied that each person who occupies a position of authority in the body corporate has been approved by the Commission to occupy that position;
 - (d) shall be satisfied that at least one director of the body corporate has knowledge of the business of bookmaking and the obligations of bookmakers under this Act; and
 - (e) shall be satisfied that no circumstances make it undesirable to grant a licence to the body corporate.
- (2) A person shall not occupy a position of authority in a body corporate that holds a bookmaker's licence unless that person has been approved by the Commission to occupy that position.
Penalty: \$2 000.
- (3) When determining whether or not to approve a person who occupies or seeks to occupy a position of authority in a body corporate that has applied for or holds a licence the Commission —

- (a) shall be satisfied that the person has lodged a security under section 11E(2), if required to do so by the Commission;
 - (b) shall be satisfied that the person does not hold a bookmaker's licence;
 - (c) shall be satisfied that the person is not a member of a partnership that holds a bookmaker's licence;
 - (d) shall be satisfied that the person does not hold a position of authority in another body corporate that holds a bookmaker's licence;
 - (e) shall be satisfied that the person is not under the age of 18 years;
 - (f) shall be satisfied that the person is not, according to the *Interpretation Act 1984* section 13D, a bankrupt;
 - (g) shall be satisfied that the person is a fit and proper person and that no circumstances make it undesirable to approve the person; and
 - (h) may take into account not only the person but also the repute and background of persons suspected by the Commission to be associated with the person.
- (4) Subject to the provisions of this Act, a bookmaker's licence that is granted to a body corporate, unless the licence is suspended or cancelled pursuant to a determination made administratively by the Commission in the exercise of prescribed disciplinary powers, remains current until the body corporate is dissolved or until the licence is surrendered.
- (5) No licence held by a body corporate shall be transferable.
- (6) A body corporate that holds a bookmaker's licence can only carry on the business of a bookmaker by means of a licensed manager or a licensed employee.
- (7) A bookmaker's licence held by a body corporate subject to, and in accordance with, the provisions of this Act and the terms and

s. 11C

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

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

Penalty: \$5 000.

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

Penalty: \$2 000.

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

Penalty: \$5 000.

[Section 11C inserted by No. 13 of 2002 s. 7; amended by No. 35 of 2003 s. 102; No. 18 of 2009 s. 11(5) and (6).]

11D. Licences — manager or employee

- (1) When determining whether or not to approve an application under section 11 for a bookmaker's manager licence or a bookmaker's employee licence, the Commission —
- (a) in the case of an applicant for a bookmaker's manager licence, shall be satisfied that the applicant has knowledge of the business of bookmaking and the obligations of bookmakers under this Act;
 - (b) shall be satisfied that the applicant is a fit and proper person and that no circumstances make it undesirable to grant a licence to that person; and
 - (c) may take into account not only the applicant but also the repute and background of persons suspected by the Commission to be associated with the applicant.
- (2) The Commission shall not grant a bookmaker's manager licence or a bookmaker's employee licence to a body corporate or a partnership.
- (2a) The Commission shall not grant a bookmaker's manager licence or a bookmaker's employee licence to a person under the age of 18 years.
- (3) Subject to the provisions of this Act a bookmaker's manager licence or a bookmaker's employee licence, unless suspended or cancelled pursuant to a determination made administratively by the Commission in the exercise of prescribed disciplinary

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powers, remains current for a period of 5 years or until surrendered.

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

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

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carry on the business as an agent of or substitute for the bookmaker.

[Section 11D inserted by No. 13 of 2002 s. 7; amended by No. 35 of 2003 s. 80 and 102.]

11E. Security

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

to have been performed, in the form of a bond approved by the Commission, and shall be —

- (a) accompanied by cash to be held by the Treasurer; or
- (b) entered into by an insurance company, ADI, or person acceptable to the Commission,

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

(3) The Commission may —

- (a) apply a security in relation to a betting debt, regardless of the date the debt was incurred by the bookmaker;
- (b) terminate a bond in accordance with its terms;
- (c) advertise, and call for claims, in respect of betting transactions and fix a period after the expiry of which claims may be disregarded;
- (d) hold any security until after the expiry of any period fixed for the filing of claims, and for a reasonable period thereafter;
- (e) where a bond is terminated, or if the Commission otherwise determines that the security held should be reviewed, require a licensee to furnish —
 - (i) a statement of assets and liabilities;
 - (ii) further or other security; or
 - (iii) both,

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

- (f) where a bond of a director of a body corporate is terminated, or if the Commission otherwise determines

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that the security held should be reviewed, require the director to furnish further or other security and if the director fails to do so within the time fixed by the Commission the operation of the body corporate's licence may be suspended until the director has complied to the satisfaction of the Commission; and

- (g) deduct from any sum recovered by the Commission under a security the costs and expenses of that recovery.
- (4) After deduction of the costs and expenses authorised by subsection (3)(g), the balance of any sum recovered by the Commission under a security of a licensee or a security of a director of a body corporate that is a bookmaker shall be applied —
- (a) firstly, in discharging any portion of any bookmakers' annual licence fee or bookmakers' betting levy due under this Act, and any other tax, duty, fines or penalties payable under any written law by the bookmaker;
 - (b) secondly, in payment or rateably in payment of what the Commission decides are the betting debts of the bookmaker; and
 - (c) if there is any sum then remaining, in repayment to the surety, bookmaker or director from which or whom the sum was recovered.
- (5) Before a security lodged with the Commission is discharged the Commission may require a licensee, or former licensee, in respect of whose licence the security was lodged to produce at the office of the Commission all records relating to the conduct of business under that licence, or such of those records as the Commission specifies in writing, for inspection by the Commission, and a person who contravenes any such requirement commits an offence.
- Penalty: \$5 000.
- (6) In subsection (5), a reference to a licensee includes —

- (a) if the licensee is a body corporate, a reference to a person who occupies or occupied a position of authority in the body corporate; and
- (b) if the licensee is a partnership, a reference to a member or former member of the partnership,

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

[Section 11E inserted by No. 13 of 2002 s. 7; amended by No. 35 of 2003 s. 102.]

11F. Notification of Commission in relation to licensed manager

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

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

[Section 11F inserted by No. 13 of 2002 s. 7; amended by No. 35 of 2003 s. 102.]

11G. Offences

- (1) A person who in, or in relation to —
 - (a) any application or matter to be determined by the Commission, or by a steward in charge of a race meeting or steward or other person under section 12A; or
 - (b) any —
 - (i) statement of assets or liabilities;
 - (ii) notice or annual return;
 - (iii) return or other record; or
 - (iv) thing,

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required, made, maintained, kept, delivered, furnished or produced under or for the purposes of this Act,

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

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

- (2) A person who, by an act intended to falsify or destroy the record, alters or destroys any record to which subsection (1) relates commits an offence.

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

- (3) A person who, otherwise than in the course of a duty under this Act, makes a record of, or divulges or communicates to any person, information coming to the knowledge of that person by reason of —

- (a) a report to be made or made to the Commission by the Commissioner of Police under this Act; or
- (b) this Act, in the course of the administration of this Act,

commits an offence.

Penalty: \$5 000.

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

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

commits an offence.

Penalty: \$5 000.

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

- (6) In subsection (5) —
interstate offence means offence under the law of another State or of a Territory, which offence is declared by the regulations to be an offence that corresponds to an offence under subsection (4).

[Section 11G inserted by No. 13 of 2002 s. 7; amended by No. 35 of 2003 s. 102; No. 84 of 2004 s. 82.]

[11H, 11I. Deleted by No. 70 of 2006 s. 10(2).]

12. Permits required to bet on race courses etc.

- (1) Nothing in this Act authorises a bookmaker, or the employee, licensed manager or agent of a bookmaker, to bet or carry on business as such on a race course without first having obtained a permit to do so from the committee or other authority controlling it.
- (2) Subject to this section, the committee or other authority may grant permits to do so subject to such conditions as the committee or other authority thinks fit, but to such persons only as are the holders of a licence authorising the carrying on of that activity under section 11A, 11B, 11C or 11D and, where appropriate, endorsed for the purposes of section 4B.
- (3) No bookmaker shall bet or carry on business as such on a race course, except on such parts of it as are specially set apart for that purpose by the committee or other authority controlling it, and then only (except as regards betting on sporting events as authorised and approved under section 4B) —

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- (a) during any day on which a race meeting is conducted at the race course; or
 - (b) on other days, at times approved by both the Commission and the committee or other authority controlling the race course.
- (3a) Subject to subsection (3b), no bookmaker shall bet or carry on business as such on a race course under subsection (3) unless a steward is present at the race course while that betting or business is carried on to supervise the conduct of the betting or business.
- (3b) A bookmaker may take bets —
- (a) by means of telephone betting in accordance with the regulations; or
 - (b) by means of internet betting in accordance with the regulations,
- on a race course under subsection (3) whether or not a steward is present at the race course to supervise the conduct of the betting.
- (4) A steward may —
- (a) permit a bookmaker who is a natural person to use a licensed manager or a licensed employee, being a manager or employee specifically nominated to and approved by that authority for that purpose —
 - (i) as substitute bookmaker on behalf of the bookmaker where that bookmaker is absent on account of sickness, leave or other circumstances acceptable to that authority;
 - (ii) as the agent of that bookmaker to operate a second stand, or in another approved area, on behalf of that bookmaker at that race course, either generally or on a particular occasion, whether or not subparagraph (i) applies; or

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

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and

- (b) in respect of all or any of the types of betting authorised by the licence, permit the carrying on of business and the making of bets at that race course by a licensed manager of the bookmaker.
- (5) The committee or other authority controlling a race course shall —
- (a) upon request, furnish to the Commission a plan showing —
 - (i) the situation of any betting ring or approved area, or any proposed betting ring or approved area, on the race course; and
 - (ii) the positions and numbers of the stands to be allotted, and to whom they are allotted;
 - (b) not permit —
 - (i) any person to carry on the business, or any aspect of the business, of a bookmaker on that race course unless the person holds a licence so to do under this Act;
 - (ii) any bookmaker to bet or offer to bet from a position other than the betting ring or an approved area and at the stand allotted by the racing club; or
 - (iii) any person to bet, or offer to bet, with any person other than a bookmaker;
 - (c) ensure that —
 - (i) any duplicate record, or other betting material, required to be delivered to a person authorised by the racing club to receive it is duly received at the prescribed time by a person so authorised;
 - (ii) duplicate records are legible and complete, including any registered sheet number;

- (iii) a return in a form approved by the Commission, setting out the prescribed particulars of bookmakers, the consideration for bets and the bookmakers' betting levy paid and payable, is delivered to the Commission in a manner approved by the Commission; and
 - (iv) payment of bookmaker's betting levy is duly made.
- (6) Where an application by a licensee to the committee or other authority controlling a race course for a permit is refused under this section, or the permit of a licensee is cancelled or suspended, the committee or other authority controlling the race course to which that application or permit related shall forthwith inform the Commission, in writing, of —
 - (a) the fact of the refusal, cancellation or suspension and the date it took effect; and
 - (b) their intentions in relation to applications for future permits made by that applicant or licensee.
- (7) RWWA shall report to the Commission, as soon as is practicable, the result of any hearing or appeal conducted under the RWWA Act relating to —
 - (a) improper conduct; or
 - (b) a breach of this Act or of the rules of wagering as defined in the RWWA Act,

on the part of a bookmaker, licensed manager or licensed employee.

[Section 12 amended by No. 77 of 1976 s. 13; No. 34 of 1985 s. 5; No. 11 of 1992 s. 29 and 33; No. 63 of 1995 s. 48; No. 13 of 2002 s. 8; No. 35 of 2003 s. 81 and 102; No. 8 of 2007 s. 4.]

12A. Temporary bookmakers' employees' licences

- (1) A bookmaker may apply in a form approved by the Commission to a steward in charge of a race meeting for a temporary

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bookmaker's employee's licence to be granted to a person nominated by the bookmaker in respect of the day, or one of the days, of the race meeting.

- (1a) A bookmaker may apply in a form approved by the Commission to a steward for a temporary bookmaker's employee's licence to be granted to a person nominated by the bookmaker in respect of a day on which a bookmaker may bet or carry on business as such on the race course under section 12(3).
- (2) A steward to whom an application is made under subsection (1) or (1a) may —
- (a) if that steward is satisfied that the applicant —
 - (i) has no licensed employees, or insufficient licensed employees, to enable the applicant to conduct the applicant's business at the race meeting or race course on the day in question; and
 - (ii) has taken all reasonable steps to obtain the services of a licensed employee or an additional licensed employee, but to no avail,grant the temporary licence applied for, subject to such terms and conditions as that steward imposes on that temporary licence; or
 - (b) refuse the application,
- but may before doing so require the applicant to furnish to that steward such information additional to that provided in a form approved by the Commission as appears to that steward to be necessary for the proper consideration of the application.
- (3) In making a decision under subsection (2), a steward shall apply such principles as are from time to time communicated to racing clubs by the Commission for the purposes of this section.
- (4) A steward is not required to specify any reason for a refusal made by the steward under subsection (2)(b).

- (5) A steward —
- (a) who has granted one or more temporary licences under subsection (1) in respect of a race meeting; and
 - (b) who does not, within 3 days of the conclusion of the race meeting, communicate to the Commission such details of the applications for those temporary licences, and of the persons to whom those temporary licences have been granted, as are prescribed,
- commits an offence.
- (5a) A steward —
- (a) who has granted one or more temporary licences under subsection (1a); and
 - (b) who does not, within 3 days of the day in respect of which the temporary licence was granted, communicate to the Commission such details of the applications for those temporary licences, and of the persons to whom those temporary licences have been granted, as are prescribed,
- commits an offence.
- (6) A temporary licence remains current until the conclusion of the day in respect of which it was granted.
- (7) A person to whom a temporary licence is granted is deemed to be the holder of a bookmaker's employee's licence in relation to the day to which the temporary licence relates.
- (8) In this section —
- temporary licence*** means temporary bookmaker's employee's licence referred to in subsection (1) or (1a).

[Section 12A inserted by No. 17 of 1998 s. 13; amended by No. 13 of 2002 s. 9; No. 35 of 2003 s. 82 and 102.]

13. Bookmakers' annual licence fee

- (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 Commission;

- (c) provide for the delivery, by bookmakers to the Commission, 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 13 inserted by No. 63 of 1995 s. 49; amended by No. 35 of 2003 s. 102.]

Part 3 — Levies and totalisators

[Heading inserted by No. 35 of 2003 s. 101(3).]

14A. Betting operators' liability to lodge returns and to pay racing bets levy

(1) In this section —

betting operator means —

- (a) a domestic betting operator; or
- (b) an offshore betting operator; or
- (c) the operator of a betting exchange;

gross revenue means charges, commission, consideration, earnings, fees, reward or other remuneration (however described) payable to or received by a betting operator in relation to racing bets placed with, or placed and accepted through, the operator;

racing bet means a bet placed with, or placed or accepted through, the betting operator that is —

- (a) placed with a domestic betting operator or an offshore betting operator; or
- (b) of the type referred to in paragraph (a) or (b) of the definition of ***betting exchange*** in section 4AA,

on a horse or greyhound race conducted in Western Australia;

turnover means the total amount of racing bets and includes bet backs placed on the backers side of the bets by one bookmaker with another bookmaker solely for the purpose of lowering the risk incurred by the bookmaker on bets already accepted from a customer.

(2) In respect of racing bets placed with, or placed or accepted through, a betting operator on or after 1 September 2008, the betting operator must —

- (a) within the period prescribed, lodge with the Commission a return in the form approved by the Commission in writing; and
- (b) at the time of lodging each return required by paragraph (a), pay to the Commission the racing bets levy on the whole of the gross revenue or turnover, as the case may be, of the betting operator at the rate imposed by the *Racing Bets Levy Act 2009*.

Penalty:

- (a) a fine of \$10 000;
 - (b) for each separate and further offence committed by the person under the *Interpretation Act 1984* section 71, a fine of \$1 000.
- (3) Section 18B(2) to (6) apply as if a reference in those provisions —
- (a) to the bookmaker's betting levy were a reference to the racing bets levy; and
 - (b) to a bookmaker were a reference to a betting operator.
- (4) An amount that is payable by a person to the Commission under this section but is not paid may be recovered from that person as a debt due to the Commission in any court of competent jurisdiction.

[Section 14A inserted by No. 29 of 2009 s. 6.]

14B. Transitional

If a bookmaker has paid an amount of levy under section 14(2)(b) in relation to a racing bet (as defined in section 14A(1)) placed with the bookmaker in the period beginning on 1 September 2008 and ending on the day on which this Act receives the Royal Assent, that amount is to be credited against any amount that the bookmaker is liable to pay under section 14A(2)(b).

[Section 14B inserted by No. 29 of 2009 s. 6.]

14. Bookmakers' liability to pay bookmakers' betting levy

(1) In this section —

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

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

turnover means the amounts of money paid or promised as the consideration for bets which are made by a bookmaker, whether the bets are made by the bookmaker as a party to the bet, or whether the bets are negotiated by the bookmaker as agent for another person but —

- (a) does not include any money promised or paid by the bookmaker as the consideration for a bet made by the bookmaker on the bookmaker's own behalf in the capacity of a backer but not in the capacity of bookmaker; and
- (b) the Commission shall have an absolute discretion to decide what is and what is not a bet made by a bookmaker on the bookmaker's own behalf in the capacity of a backer but not in the capacity of bookmaker.

(2) A bookmaker shall, in accordance with the provisions of this Act —

- (a) make true and full returns of the bookmaker's on-course turnover;
- (b) pay levy on the whole of that turnover, for the year commencing on 1 August 1989 and for each year thereafter, at the rate imposed for that year by the *Bookmakers Betting Levy Act 1954*.

(3) The provisions of this section do not authorise a holder of any licence under this Act to act as agent contrary to any condition of the holder's licence or to any provision of this Act.

[Section 14 inserted by No. 50 of 1956 s. 2; amended by No. 76 of 1959 s. 3; No. 113 of 1965 s. 8(1); No. 58 of 1990 s. 8; No. 11 of 1992 s. 29 and 35; No. 63 of 1995 s. 50; No. 13 of 2002 s. 10; No. 35 of 2003 s. 102.]

15. Payment of levy by bookmakers on bets made at race meetings

- (1) Where a person with permission of a racing club bets as a bookmaker (whether in person, as the agent of or substitute for a bookmaker, or as a licensed manager of a bookmaker) at the race course controlled by the club, subsections (2), (3), (4) and (5) shall apply as if a reference to the bookmaker included a reference to that person.
- (2) The bookmaker shall cause to be recorded in duplicate on a form provided or approved by the Commission so that the original and duplicate are clearly legible and the duplicate is an exact copy of the original if the record is handwritten, and in a permanent documentary form if the record is to be made using a computer or other machine, particulars of the bets made by or on behalf of the bookmaker in respect of —
 - (a) each race held or to be held at the race course, when the bet is made;
 - (b) each race held or to be held elsewhere when the bet is made; and
 - (c) each sporting event on which bets are made, when the bet is made,

and the bookmaker in person, if a natural person, the licensed manager of a bookmaker or the agent or substitute where a person is so acting for the bookmaker, shall sign that record.

- (3) The bookmaker shall cause to be delivered to a person authorised by the racing club to receive it on behalf of the club, the duplicate record of the particulars of the bookmaker's bets in respect of —

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- (a) each race held at a meeting conducted by that club, before the conclusion of that race as soon as may be practicable after its commencement;
- (b) each race held or to be held otherwise than at that race course and during the meeting conducted by that club at which the bet was made, at the conclusion of the meeting at which the bet was made;
- (ba) each race held or to be held otherwise than at that race course and on a day other than a day on which a race meeting is conducted at the race course, at the conclusion of the race meeting in respect of which the bet was made; and
- (c) betting on sporting events, 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 Commission, in an approval given under section 4B(2) or otherwise;

and the bookmaker in person, if a natural person, the licensed manager of a bookmaker or the agent or substitute where a person is so acting for the bookmaker, shall ensure that delivery is correctly effected.

- (4) The bookmaker in person, if a natural person, the licensed manager of a bookmaker or the agent or substitute where a person was so acting for the bookmaker, shall cause to be delivered to the racing club within 7 days of the race meeting —
 - (a) a return in the form approved by the Commission signed by the bookmaker and showing the amount of money paid or promised to the bookmaker as the consideration for bets made at the meeting by that person in the capacity of bookmaker, and showing the sum payable on that amount as bookmakers' betting levy; and
 - (b) payment of that sum of bookmakers' betting levy,

but if a bet was made 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 Commission, in an approval given under section 4B(2) or 12(3)(b) or otherwise.

- (5) The racing club receiving that sum of bookmakers' betting levy from the bookmaker —
- (a) shall retain, in respect of —
 - (i) any portion of that sum that relates to betting to which section 4A applies;
 - (ii) any portion of that sum that relates to betting to which section 4B applies,
 - [(iii) deleted]*
such percentage of that portion as is prescribed, and shall apply the amount so retained to such purposes as that racing club thinks fit; and
 - (b) shall within such time of receiving that sum from the bookmaker, as the Commission appoints and is hereby authorised to appoint from time to time, either generally or for a particular case, remit, in the manner required by section 18A(2), the balance of that sum to the Commission, and supply to the Commission such particulars as the Commission requisitions and is hereby authorised to requisition.
- (6) If the racing club does not remit that balance to the Commission by the appointed time, the Commission may, without prejudicing the liability of the club to penalty under this Act, sue the club in a court of competent jurisdiction for recovery of the amount of that balance as a debt due.
- (7) The racing club shall preserve and retain possession of returns and duplicates of records delivered under this section to it by bookmakers, until the Commission consents to destruction of the returns and duplicates.

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- (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 15 amended by No. 50 of 1956 s. 3; No. 75 of 1970 s. 3; No. 77 of 1976 s. 14; No. 11 of 1992 s. 36; No. 63 of 1995 s. 51; No. 17 of 1998 s. 14; No. 13 of 2002 s. 11; No. 35 of 2003 s. 83 and 102; No. 8 of 2007 s. 5; No. 29 of 2009 s. 7.]

16. Payment of levy by bookmakers on bets made at registered premises

- (1) When a person bets as a bookmaker (whether in person, as the agent of or substitute for the bookmaker, or as a licensed manager of a bookmaker) in circumstances authorised pursuant to section 5(2), on races wherever held or to be held, the provisions of this section apply.
- (2) The person shall cause to be recorded in duplicate, in a manner approved by the Commission so that the original and duplicate are clearly legible and the duplicate is an exact copy of the original, particulars of the bets made by that person in respect of —
- (a) races of ridden horses held or to be held in this State;
 - (b) races of driven horses held or to be held in this State;
 - (c) races of horses whether ridden or driven, held or to be held elsewhere than in this State;
 - (d) races of greyhounds held or to be held within this State; and
 - (e) races of greyhounds held or to be held elsewhere than in this State,

and the bookmaker in person, or the agent or substitute where a person is so acting for the bookmaker, or the licensed manager of a bookmaker, shall sign that record.

- (3) The person shall cause to be delivered to the relevant person within 7 days of the betting taking place or within such other

time as the Commission appoints and is hereby authorised to appoint from time to time either generally or for a particular case —

- (a) duplicate recordings of bets mentioned in subsection (2) made during such period as the Commission determines and is hereby authorised to determine from time to time, either generally or for a particular case;
 - (b) a return in the form approved by the Commission signed by the bookmaker in person, or the agent or substitute where a person is so acting for the bookmaker, or the licensed manager of a bookmaker, showing the amount of money paid or promised to the bookmaker as consideration for those bets, and showing the sum payable on that amount as bookmakers' betting levy; and
 - (c) payment for the use of the Crown, of that sum payable as bookmakers' betting levy.
- (3a) Where a racing club receives a sum of bookmakers' betting levy under subsection (3) the racing club —
- (a) shall retain, in respect of —
 - (i) any portion of that sum that relates to betting to which section 4A applies;
 - (ii) any portion of that sum that relates to betting to which section 4B applies,
 - [(iii) deleted]*such percentage of that portion as is equal to the appropriate prescribed percentage referred to in section 15(5)(a), and shall apply the amount so retained to such purposes as that racing club thinks fit; and
 - (b) shall within such time of receiving that sum from the person as the Commission appoints and is hereby authorised to appoint from time to time, either generally or for a particular case, remit in the manner required by section 18A(2) the balance of that sum to the

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Commission and supply to the Commission such particulars as the Commission requires and is hereby authorised to require.

- (3b) If a racing club to which subsection (3a) relates does not remit the balance of a sum of bookmakers' betting levy to the Commission within the appointed time, the Commission may, without prejudicing the liability of the racing club to penalty under this Act, sue the racing club in a court of competent jurisdiction for recovery of the amount of that balance as a debt due.
- (3c) A racing club shall preserve and retain possession of returns and duplicates of records delivered to it under subsection (3) until the Commission consents to destruction of the returns and duplicates.
- (3d) In subsection (3) —
- the relevant person* means —
- (a) in relation to a race held within this State, the racing club conducting the race; or
 - (b) in relation to a race held elsewhere than in this State, the Commission.
- (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 16 amended by No. 50 of 1956 s. 4; No. 49 of 1960 s. 9; No. 77 of 1976 s. 15; No. 78 of 1978 s. 5; No. 6 of 1987 s. 10; No. 11 of 1992 s. 37; No. 63 of 1995 s. 52; No. 17 of 1998 s. 15; No. 13 of 2002 s. 12; No. 35 of 2003 s. 84 and 102; No. 29 of 2009 s. 8.]

16A. Books of account, records etc.

- (1) A bookmaker or, in the case of a bookmaker which is a partnership or body corporate, the licensed manager of the bookmaker shall —

- (a) prepare and keep in the English language a true, complete, accurate and legible written record —
 - (i) setting out the financial position of the business carried on, in such a way as will enable the accounts to be conveniently inspected and properly audited; and
 - (ii) showing full particulars and details of each betting transaction made by or on behalf of that bookmaker and the betting turnover resulting,in such manner as is required by or under this Act, or by the Commission;
- (b) prepare and deliver correctly the returns, forms or other records required by or under this Act, entering accurately and in a manner approved by the Commission full particulars and details of each betting transaction and the betting turnover resulting;
- (c) for the purpose of recording bets —
 - (i) use such a form and such a method of recording as may be required by or under this Act and is approved by the Commission;
 - (ii) make the required entries in numerical sequence; and
 - (iii) ensure that the requirements of the regulations as to the use of tickets are complied with;
- (d) ensure that no alteration, erasure or obliteration in respect of an entry of a bet or in any record is made in such a manner as to prevent its legibility;
- (e) where an error is made in the recording of a bet a person making any alteration to that record shall, if the record is handwritten —
 - (i) rule through the incorrect entry, preserving its legibility; and
 - (ii) make the correct entry immediately under it,

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and if the record was made using a computer —

- (iii) cause the word “CANCELLED” to be endorsed adjacent to such details of the incorrect entry as will enable the reference to be identified; and
 - (iv) make the correct entry immediately thereafter;
- (f) not remove, or permit to be removed, any part of any book of forms or of any form or other record, except for the purpose of delivering it to a racing club or to the Commission as required by or under this Act;
 - (g) ensure that any duplicate of a form or other record required by or under this Act is clearly legible and an exact copy of the original;
 - (h) retain such of the records and betting material relating to the business carried on by or on behalf of that bookmaker as the Commission may from time to time in writing require for 5 years or such longer period after the completion of the transaction to which they relate as may be so required; and
 - (j) on being required to do so by the Commission or some other person authorised by or under this Act so to require —
 - (i) notify the Commission, where any betting material, form or other record may be inspected; and
 - (ii) furnish, deliver or produce any such betting material, form or other record to the Commission or to a person authorised for the purpose under the Act, as may be required.
- (2) If default is made in complying with a provision of subsection (1), any licensed employee or licensed manager who is in default and any bookmaker who failed to take all reasonable steps to secure compliance with the provision commits an offence.

[Section 16A inserted by No. 11 of 1992 s. 38; amended by No. 63 of 1995 s. 53; No. 13 of 2002 s. 13; No. 35 of 2003 s. 102.]

[16B, 16C. Deleted by No. 49 of 1960 s. 11.]

17. Effect on liability for payment of levy where racing authority declares bets off etc.

Where a person authorised to possess and operate a totalisator, or who is a bookmaker, the licensed manager of the bookmaker, or a licensed employee on behalf of that bookmaker has made a bet on a race or sporting event and has included the bet in a record or return as required under this Act, if it appears to the Commission that because of a decision of a competent authority controlling the race or sporting event or betting in respect of the race or sporting event, that person is not entitled to receive or retain the whole or part of the consideration for the bet, the Commission shall exempt that person from any liability for the payment of —

- (a) an annual licence fee in respect of —
 - (i) a bookmaker's licence; or
 - (ii) an authorisation to possess and operate a totalisator;

or

- (b) bookmakers' betting levy,

in respect of the consideration not to be received or retained and if that person has already paid it, the Commission shall refund it to that person on demand.

[Section 17 amended by No. 6 of 1987 s. 12; No. 11 of 1992 s. 39; No. 63 of 1995 s. 54; No. 13 of 2002 s. 14; No. 35 of 2003 s. 102.]

17A. Annual licence fee in respect of totalisators

- (1) Subject to this Act, for so long as an authorisation to which section 17B refers is lawful and the totalisator is operated the

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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 authorisation 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 Commission 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 17A inserted by No. 63 of 1995 s. 55; amended by No. 35 of 2003 s. 102.]

17B. Use of the totalisator by racing clubs

(1) The possession by the committee or other authority controlling a race course of a totalisator at that race course shall be lawful if —

- (a) it was authorised —
 - (i) immediately prior to the coming into operation of this section, by or under *The Totalisator Act 1883*² or the *Totalisator Act Amendment Act 1899* or pursuant to a licence under the *Totalisator Regulation Act 1911*²; or
 - (ii) by the Commission under section 17D;

and

- (b) that authorisation is not suspended or cancelled by the Commission under subsection (4),

and the operation of that totalisator by or on behalf of that committee or other authority for the purpose of making bets during the day of any race meeting conducted there, or in relation to prescribed activities with respect to the transmission of bets received to a totalisator pool operated by another operator so authorised, is hereby authorised, subject to subsection (3) and section 17C.

(2) Subject to subsection (3), it shall be lawful for any person, with the express or implied permission of the operator of that totalisator, to participate in the use of, and the facilities afforded by, a totalisator operated, or purporting to be operated, in accordance with the authorisation conferred by subsection (1).

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

- (a) participate in; or
- (b) be permitted by the operator of that totalisator to participate in,

the use of, or the facilities afforded by, a totalisator operated, or purporting to be operated, in accordance with an authorisation conferred by subsection (1).

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- (4) For the purposes of section 32A, an authorisation conferred by this section may be dealt with as though it were a licence held by a bookmaker, and the committee or other authority operating a totalisator on a race course shall be liable and may be dealt with as though the holder of such a licence.
- (5) The secretary or chief executive officer and members of the committee or executive body of a racing club authorised 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 or chief executive officer 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.

- (9) Subject to this Act and regulations made under this Act, a committee or other authority that is authorised to possess a totalisator at a race course shall operate the totalisator in accordance with the rules of wagering as defined in the RWWA Act.

[Section 17B inserted by No. 11 of 1992 s. 61; amended by No. 63 of 1995 s. 56; No. 13 of 2002 s. 15; No. 35 of 2003 s. 85 and 102.]

17C. Making of bets on designated sporting events not authorised

Notwithstanding the application of this Act to designated sporting events conducted by a permittee at a registered place, and the deeming provisions of section 4A, section 17B shall not be taken to make the possession of a totalisator by a permittee lawful or to authorise the operation of a totalisator by a permittee for the purpose of making bets on a designated sporting event.

[Section 17C inserted by No. 11 of 1992 s. 61; amended by No. 17 of 1998 s. 16.]

17D. Commission may authorise possession and operation of a totalisator by a racing club

Where the Commission is satisfied that a racing club has been established, the committee or other authority controlling the racecourse on which that body conducts race meetings may, on application being made to the Commission in the prescribed manner and such information as may be prescribed or required by the Commission having been furnished, be granted by the Commission an authorisation to possess and operate a totalisator at that racecourse.

[Section 17D inserted by No. 11 of 1992 s. 61; amended by No. 35 of 2003 s. 102.]

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17E. Percentage of off course bets to belong to RWWA

- (1) Where the amount of any bet (other than a fixed odds bet) is, in the first instance, received by RWWA or one of its agencies —
 - (a) RWWA shall deduct therefrom, by way of commission, the amount prescribed as the commission for a bet of that kind or if another amount is determined by RWWA under this section, that amount; and
 - (b) any amount so deducted by RWWA shall for all purposes belong to RWWA and form part of the general funds of RWWA.
- (2) RWWA may, if it considers it necessary, determine a lower amount than that prescribed as the amount of commission to be deducted under subsection (1) from bets —
 - (a) of a specified kind; and
 - (b) received by RWWA or one of its agencies for inclusion in a totalisator pool operated by RWWA under the RWWA Act section 50(1)(b),during a specified period.
- (3) RWWA may, if it considers it necessary, determine an amount other than that prescribed as the amount of commission to be deducted under subsection (1) from bets —
 - (a) of a specified kind; and
 - (b) received by RWWA or one of its agencies for inclusion in a combined totalisator pool scheme of a kind referred to in the RWWA Act section 59,during a specified period.
- (4) RWWA must provide the Commission with written notice of a determination under subsection (2) or (3).

[Section 17E inserted by No. 63 of 1995 s. 57; amended by No. 40 of 1999 s. 32; No. 35 of 2003 s. 86 and 103; No. 8 of 2007 s. 6.]

17EA. Management of fixed odds — prescribed margin

- (1) When fixed odds betting is conducted by RWWA on a race or event, RWWA shall ensure that the odds offered, when assessed in accordance with subsection (3), give rise to a figure “**m**” (“margin”) equal to or greater than the prescribed figure (“margin”) for that type of race or event.
- (2) Subsection (1) does not apply if RWWA is conducting a jointly operated fixed odds betting system and has adopted, and is operating under, the rules pertaining to that joint system that were already in place.
- (3) For the purposes of subsection (1), “**m**” is to be calculated by assessing the individual odds offered on every participant in a race or event using the following formula —

$$(p^1 + p^2 + p^3 + \dots + p^n) - 100 = m$$

where

p¹ represents the odds (expressed as a percentage) offered on the first participant in that race or event;

p² represents the odds (expressed as a percentage) offered on the second participant in that race or event;

p³ represents the odds (expressed as a percentage) offered on the third participant in that race or event, etc. (...depending on the number of participants in the particular race or event...); and

n represents the number of participants in that race or event.

[Section 17EA inserted by No. 40 of 1999 s. 33; amended by No. 35 of 2003 s. 103.]

17F. Percentage of bets to belong to racing club

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

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club has been duly authorised 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 17F inserted by No. 63 of 1995 s. 58.]

18. Omission of bets from records or returns does not affect liability for levy or penalty

The omission from a record required to be made or from a return required to be delivered under this Act by a person, of a bet made by the bookmaker, the licensed manager of the bookmaker, or a licensed employee on behalf of the bookmaker, does not relieve the bookmaker from liability for bookmakers' betting tax 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*¹ or for bookmakers' betting levy thereafter payable on the consideration for the bet or from penalty under this Act.

[Section 18 amended by No. 6 of 1987 s. 12; No. 11 of 1992 s. 40; No. 63 of 1995 s. 59; No. 13 of 2002 s. 16.]

18A. Payment of levy

- (1) A racing club shall forward to the Commission, within 14 days after the conducting by it of a race meeting within the metropolitan region or within 21 days if the race meeting conducted by it is held in the country, a return in the form approved by the Commission setting out —
 - (a) the names of all persons who have bet as bookmakers at the race meeting;
 - (b) the total amount of money paid or promised to each of those persons as the consideration for bets made at the

meeting by that person in the capacity of bookmaker;
and

- (c) the total amount of bookmaker's betting levy paid by the bookmakers to the racing club and the balance of that amount payable to the Commission, after the racing club has deducted the amount which it is authorised to retain in accordance with section 15(5)(a),

but if a bet was made 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 Commission, in an approval given under section 4B(2) or 12(3)(b) or otherwise.

- (2) When and as often as the return required by this section is forwarded to the Commission it shall be accompanied by —
 - (a) the payment to the Commission of the amount shown in the return as the net amount of bookmaker's betting levy; and
 - (b) a statement of the total amount of stakes paid, at each of the respective meetings to which the return relates, by the club.

[Section 18A inserted by No. 11 of 1992 s. 41; amended by No. 63 of 1995 s. 60; No. 17 of 1998 s. 17; No. 13 of 2002 s. 17; No. 35 of 2003 s. 102; No. 38 of 2005 s. 15; No. 8 of 2007 s. 7.]

18B. Assessments, and additional levy

- (1) Where the Commission finds that money in respect of any annual licence fee, or any bookmakers' betting levy or further levy is payable by any bookmaker or any racing club, the Commission may —
 - (a) assess the amounts of money paid or promised as the consideration for bets and in respect of which a liability exists for the payment of such a fee or any bookmakers' betting levy; and
 - (b) calculate the fee or levy payable.

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(2) Where —

- (a) the Commission is unable to ascertain the amount of money due in respect of any annual licence fee or as bookmaker's betting levy or further levy properly payable by reason of a bookmaker or racing club failing to keep or deliver any return or other record, or to furnish any information, as and when required by this Act or by the Commission, or because the Commission has reason to believe or suspect that any record delivered or information furnished is materially incomplete and inaccurate; or
- (b) for any other cause the Commission has reason to believe or suspect that any bookmaker or racing club is liable to pay any annual licence fee or any bookmakers' betting levy, whether or not a return was delivered,

the Commission may cause an assessment to be made of the amount of fee due or upon which, in the judgement of the Commission, bookmakers' betting levy or further levy ought to be levied.

(3) Where an assessment under subsection (2) is made in relation to any bookmaker or racing club —

- (a) the Commission shall cause notice in writing of the assessment of any money due in respect of an annual licence fee, or the bookmakers' betting levy or further levy, and of any additional levy payable under subsection (5), to be served on the bookmaker or racing club together with the calculation of, and reasons for, such assessment; and
- (b) the bookmaker or racing club on whom the notice is served shall be liable to pay the amount in respect of the annual licence fee, or of the bookmakers' betting levy or further levy, and any additional levy, in accordance with the notice of assessment on or before the date specified in that notice, except in so far as the bookmaker or

racing club may establish that the assessment is excessive.

- (4) An omission to give the notice required by subsection (3) does not invalidate any assessment or calculation made under this section.
- (5) A bookmaker or racing club which becomes liable to pay in respect of an annual licence fee or any bookmakers' betting levy or further levy by virtue of an assessment made under subsection (2) shall also be liable to pay, by way of penalty fee or additional bookmakers' betting levy, an amount equal to the amount of the fee or levy payable by virtue of that assessment but the Commission may, for reasons which the Commission thinks sufficient in any particular case, remit that penalty fee or the additional levy, wholly or in part.
- (6) Where the Commission finds that an omission has been made from a record required to be made or a return required to be delivered under this Act in respect of any amount which the Commission has reason to believe or suspect represents a bet made, the Commission may determine that the bet of that amount was made and may cause an assessment to be made under subsection (2) as though information had been furnished which was materially incomplete and inaccurate.

[Section 18B inserted by No. 11 of 1992 s. 41; amended by No. 63 of 1995 s. 61; No. 13 of 2002 s. 18; No. 35 of 2003 s. 102.]

Part 4 — Enforcement and offences

[Heading inserted by No. 35 of 2003 s. 101(4).]

19. Commission may sue bookmaker for unpaid levy

- (1) Where a bookmaker does not pay bookmakers' betting levy payable under this Act by the bookmaker, whether payable to the Commission or to a racing club, the Commission may, without prejudicing the liability of the bookmaker to penalty under this Act, sue the bookmaker for the amount of the levy unpaid in a court of competent jurisdiction.
- (2) Where a racing club does not refund any overpayment of bookmakers' betting levy made under this Act proceedings for the recovery of the amount refundable may be brought in a court of competent jurisdiction —
 - [(a) deleted]*
 - (b) by the bookmaker.

[Section 19 amended by No. 58 of 1990 s. 10; No. 63 of 1995 s. 62; No. 35 of 2003 s. 102.]

19A. Commission may recover unpaid money in respect of an annual licence fee

Where —

- (a) a bookmaker; or
- (b) a racing club authorised 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 Commission 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 19A inserted by No. 63 of 1995 s. 63; amended by No. 35 of 2003 s. 102.]

20. Entry and inspection of race courses and certain other premises

(1) In this section —

Commission representative means —

- (a) a member of the Commission;
- (b) a person authorised by the Commission or the Minister;
- (c) an authorised officer; or
- (d) a police officer.

(2) A Commission representative may at any time enter without charge and inspect —

- (a) a race course;
- (b) premises to which section 5(2) applies;
- (c) premises or a vehicle or vessel from or on which a bookmaker carries on business;
- (d) a venue at which a sporting event on which betting takes place is being held; or
- (e) a totalisator, totalisator agency or other premises of RWWA.

(3) An inspection may be carried out under this section for any or all of the following purposes —

- (a) to ascertain whether a liability to pay a levy or fee under this Act has been met;
- (b) to gather information relevant to ascertaining the amount of a levy or fee under this Act;
- (c) to gather any information relevant to making a decision under this Act;
- (d) to audit records required to be kept under —
 - (i) this Act; or
 - (ii) the RWWA Act in relation to gambling;
- (e) to gather evidence of a suspected contravention of —

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- (i) this Act;
 - (ii) a condition of a licence, permit or approval under this Act; or
 - (iii) the RWWA Act in relation to gambling;
- (f) any other purpose relevant to the administration of —
- (i) this Act; or
 - (ii) the RWWA Act in relation to gambling.
- (4) A Commission representative who is an authorised officer shall, on first encountering a person apparently in a position of authority on the premises, and also on the reasonable request of any other person on the premises, display his or her certificate of appointment to the person.

[Section 20 inserted by No. 35 of 2003 s. 87; amended by No. 8 of 2009 s. 25.]

20A. Powers of Commission representative

- (1) When a Commission representative exercises his or her powers of entry and inspection under section 20, the Commission representative may do any or all of the following —
- (a) search the premises and examine anything on the premises;
 - (b) take possession of, and remove from premises, records, or anything else relevant to the investigation, found in the course of the inspection;
 - (c) take extracts from or make copies of, or download or print out, any records found in the course of the inspection;
 - (d) photograph or film anything on the premises;
 - (e) if anything on the premises that is relevant to the inspection cannot be conveniently removed — secure it against interference;

- (f) require any person who is on the premises —
 - (i) to state his or her full name and address;
 - (ii) to answer (orally or in writing) questions put by the Commission representative that are relevant to the investigation;
 - (iii) to give the Commission representative any information, record or other thing in the person's possession or control that is likely to be relevant to the inspection;
 - (iv) to operate or allow the Commission representative to operate equipment or facilities on the premises for inspection purposes;
 - (v) to give the Commission representative any translation, code, password or other information necessary to gain access to or to interpret and understand any document or information located or obtained by the Commission representative in the course of the inspection;
 - (vi) to give other assistance that the Commission representative reasonably requires to carry out the inspection.

- (2) A person who —
 - (a) does not comply with a requirement under subsection (1)(f);
 - (b) gives a Commission representative information that the person knows to be false or misleading in a material particular; or
 - (c) hinders, delays or obstructs a Commission representative in carrying out functions under this section,

commits an offence.

Penalty: \$5 000.

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- (3) Nothing in this section or section 20 derogates from the powers of a Commission representative who is a police officer.
- (4) A Commission representative is not authorised under this section to take anything from any place unless he or she —
 - (a) gives the occupier or another person apparently responsible to the occupier a receipt for the thing taken, if requested to do so by the occupier or other person; or
 - (b) if the occupier or a person apparently responsible to the occupier is not present, leaves a receipt for the thing taken, in an envelope addressed to the occupier, in a prominent position on the premises.
- (5) A receipt shall be in a form approved by the Commission.
- (6) The Commission shall ensure that a person from whom a record or anything else is taken under this section and who would otherwise be entitled to possession of it is given a copy of it, or reasonable access to it, as appropriate.
- (7) If a Commission representative takes possession of anything under this section, the Commission shall ensure that it is returned to the person entitled to possession of it as follows —
 - (a) if it was taken in connection with the prosecution or possible prosecution of a suspected contravention of this Act or the RWWA Act — as soon as practicable after the relevant prosecution is completed or discontinued or, if no prosecution is commenced, as soon as practicable after the decision is made not to prosecute the suspected contravention;
 - (b) if it was an instrument on which a levy or fee was payable under this Act — as soon as practicable after assessment and payment of the relevant levy or fee;
 - (c) in any other case — within 28 days after it was taken.

[Section 20A inserted by No. 35 of 2003 s. 87.]

20B. Requirement to provide information

- (1) In this section —
authorised person means —
 - (a) an authorised officer;
 - (b) a steward appointed under the RWWA Act.
- (2) This section applies to —
 - (a) a bookmaker;
 - (b) the licensed manager of a bookmaker;
 - (c) any licensed employee or other person who the authorised officer has reason to believe is or has been acting on behalf of a bookmaker;
 - (d) a member or executive officer of the committee or other authority controlling a race course or race meeting;
 - (e) any employee or agent of a racing club.
- (3) An authorised person may require a person to whom this section applies to —
 - (a) produce for inspection specified material relating to betting or material of a specified class relating to betting, in the person's possession or control; or
 - (b) answer questions relating to betting.
- (4) An authorised person may make and retain a copy of the whole or any part of any thing produced to that person under subsection (3)(a).
- (5) When requiring a bookmaker or other person to do anything under subsection (3), the authorised person shall display to that person —
 - (a) the certificate appointing the person as an authorised officer; or
 - (b) the notice authorising the person to act as an authorised person.

s. 20C

- (6) A person who —
- (a) does not comply with a requirement under subsection (3);
 - (b) gives an authorised person information that the person knows to be false or misleading in a material particular; or
 - (c) hinders, delays or obstructs an authorised person in carrying out functions under this section,
- commits an offence.
Penalty: \$5 000.

- (7) Nothing in this section derogates from the powers of an authorised person who is a police officer.

[Section 20B inserted by No. 35 of 2003 s. 87.]

20C. Complying with information requirements

- (1) A person is not excused from complying with a requirement under section 20A or 20B to provide information, records or any other thing on the grounds that complying with the requirement would tend to incriminate the person or render the person liable to a penalty.
- (2) However, information, a record or other thing provided by the person in compliance with the requirement is not admissible in evidence in any proceedings against the person for an offence, other than an offence against this Act or the RWWA Act.

[Section 20C inserted by No. 35 of 2003 s. 87.]

21. Prohibition of betting with minors, intoxicated persons, etc.

- (1) A bookmaker, the licensed manager of a bookmaker or a licensed employee on behalf of a bookmaker, shall not knowingly —
- (a) bet with, or pay money or deliver property relating to a bet to, a person apparently under the age of 18 years; or

- (b) bet with, or pay money or deliver property relating to a bet to, a person apparently under the influence of intoxicating liquor; or
 - [(c), (d) *repealed*]
 - (e) advertise the carrying on of the business of the bookmaker, or in relation to any kind of betting or any offer to bet, in a manner prohibited by or under this Act.
- (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; or
 - (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); or
 - (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 RWWA for any person who is 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 the influence of 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 RWWA or one of its agents;

- (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, or totalisator agency, off-course, to any manager, secretary, officer, employee or agent of RWWA or employee of an agent of RWWA; and
- (b) in relation to any totalisator or totalisator agency on-course, to the operator authorised under section 17B or any other person concerned in the operation of that totalisator or totalisator agency.

[Section 21 amended by No. 113 of 1965 s. 8(1); No. 66 of 1970 s. 2; No. 46 of 1972 s. 6; No. 74 of 1987 s. 6; No. 11 of 1992 s. 43; No. 63 of 1995 s. 65; No. 40 of 1999 s. 34; No. 13 of 2002 s. 20; No. 35 of 2003 s. 103; No. 8 of 2007 s. 8.]

22. Offences by minors

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

- (a) bet with a totalisator, or be permitted by a racing club its servants or agents to participate in the use of, or the

facilities afforded by, a totalisator, being a totalisator to which section 17B applies; or

- (b) bet with a bookmaker, or the employee or the licensed manager of a bookmaker, licensed under this Act; or
- (c) request any other person to place a bet for him or for her; or
- (d) request any other person to collect payment of a winning bet for him or for her.

Penalty: \$200.

(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 authorise employment contrary to the provisions of section 21(3)(d); or
- (b) make a bet with or through RWWA; or
- (c) request any other person to place such a bet for him or for her; or
- (d) request any other person to collect payment of a winning bet with or through RWWA for him or for her.

Penalty: \$200.

[Section 22 amended by No. 113 of 1965 s. 8(1); No. 46 of 1972 s. 6; No. 11 of 1992 s. 44 and 62; No. 63 of 1995 s. 66; No. 13 of 2002 s. 21; No. 35 of 2003 s. 103; No. 8 of 2007 s. 9.]

22A. Prohibition on assisting minors to bet

A person shall not knowingly —

- (a) place a bet —
 - (i) with a totalisator; or
 - (ii) with a bookmaker, or the employee or the licensed manager of a bookmaker, licensed under this Act; or

(iii) with or through RWWA;

or

(b) where such a bet has been placed and is a winning bet, collect payment of the bet,

for a person who is apparently under the age of 18 years.

Penalty: \$200.

[Section 22A inserted by No. 8 of 2007 s. 10.]

23. Prohibition of betting on races unless in accordance with this Act

(1) A person shall not personally or by means of an agent, or by post, telephone or other electronic means of communication —

(a) make a bet at or in a place in this State; or

(b) be at or in a public place in this State for the purpose of betting,

unless —

(c) the place is —

(i) premises to which section 5(2) for the time being applies;

(ii) a race course where a race meeting is being held under a licence issued by RWWA under the RWWA Act or the *Racing Restriction Act 2003*;

(iii) a part of a race course where for the time being a bookmaker is permitted by section 12(3) to bet or carry on business as such on that race course; or

(iv) a registered place;

(d) the bet is made —

(i) by means of a totalisator authorised to operate under a written law;

(ii) as a fixed odds bet with RWWA in accordance with a written law; or

- (iii) with a bookmaker in accordance with this Act;
or
- (e) the bet constitutes permitted gaming, or social gambling, as defined in the *Gaming and Wagering Commission Act 1987*.

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

- (2) No person shall knowingly —
 - (a) place a bet for; or
 - (b) assist in laying, procuring or obtaining a bet with any bookmaker for,

a person to whom an order made under section 25 applies.

Penalty: \$200.

[Section 23 amended by No. 49 of 1960 s. 12; No. 113 of 1965 s. 8(1); No. 66 of 1970 s. 3; No. 46 of 1972 s. 6; No. 77 of 1976 s. 17; No. 34 of 1985 s. 8; No. 74 of 1987 s. 7; No. 11 of 1992 s. 45; No. 63 of 1995 s. 67; No. 17 of 1998 s. 19; No. 23 of 1998 s. 20; No. 40 of 1999 s. 35; No. 35 of 2003 s. 88; No. 8 of 2007 s. 11; No. 29 of 2009 s. 9.]

24. Unlawful betting

- (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

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- (d) bets by means of a totalisator, not being a totalisator duly authorised 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 authorised,

at any time or at any place in this State, commits an offence.

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

[(1aa) *deleted*]

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

- (2) In this section —

bets includes —

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

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

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

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

[Section 24 inserted by No. 63 of 1995 s. 68; amended by No. 17 of 1998 s. 20; No. 84 of 2004 s. 80 and 82; No. 70 of 2006 s. 7; No. 29 of 2009 s. 10.]

25. Bookmakers may be ordered not to bet

- (1) Upon proof being given to the satisfaction of the Magistrates Court that any person by excessive betting is likely to be impoverished to a degree where that person or any member of the family of that person is in want, the Court may order that no bookmaker shall bet with such person for not exceeding the space of one year.
- (2) The Court may in like manner renew such order from time to time as to all such persons as have not in its opinion reformed.
- (3) An order made under subsection (1) shall be given effect to by RWWA, any person authorised to operate a totalisator, and any person who is, or acts on behalf of, any bookmaker, and neither RWWA nor any such person shall, after notice of the making of an order under subsection (1), bet with the person named therein.

Penalty: \$250.

[(4) deleted]

- (5) An order made under this section may be revoked by the Court.
- (6) All proceedings under subsection (1) or (2) shall be heard in camera.

[Section 25 amended by No. 113 of 1965 s. 8(1); No. 78 of 1978 s. 6; No. 11 of 1992 s. 47; No. 63 of 1995 s. 69; No. 35 of 2003 s. 103; No. 59 of 2004 s. 141.]

26. Loitering in street or public place

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.

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Penalty: \$200.

[Section 26 inserted by No. 63 of 1995 s. 70.]

26A. Removal of persons

- (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.

[Section 26A inserted by No. 63 of 1995 s. 71.]

26B. Penalty for persons warning offenders of the approach of a member of the Police Force

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.

[Section 26B inserted by No. 63 of 1995 s. 72.]

26C. Unlawful betting on licensed premises

- (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 Control 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

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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 Control 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 26C inserted by No. 63 of 1995 s. 73; amended by No. 73 of 2006 s. 114.]

27. Penalty on owner or occupier of premises used for unlawful betting

An owner or occupier of a place shall not open, use, or permit the use of the place for betting by any means, whether in person or by means of an agent, or by post, telephone or other electronic means of communication, unless —

- (a) the place is —
 - (i) a race course where a race meeting is being held under a licence issued by RWWA under the RWWA Act or the *Racing Restriction Act 2003*;
 - (ii) at the time it is opened or used or permitted to be used for betting, a part of a race course where a bookmaker is for the time being permitted under section 12(3) to bet or carry on business as a bookmaker; or
 - (iii) a registered place;
- (b) the betting is carried on —
 - (i) by means of a totalisator authorised to operate under a written law; or
 - (ii) in accordance with this Act;
- (c) the provisions of section 5(2) apply;
- (d) the betting is done in accordance with the provisions of the RWWA Act; or
- (e) the betting constitutes permitted gaming, or social gambling, as defined in the *Gaming and Wagering Commission Act 1987*.

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

[Section 27 inserted by No. 35 of 2003 s. 89.]

27A. Offshore betting

- (1) In this section —

approved sporting event means —

- (a) a sporting event; or
- (b) a specific contingency of, or relating to, a sporting event,

that is the subject of an approval given under section 4B(2);

authorised person means —

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- (a) a bookmaker;
- (b) a person authorised under the law of another State or Territory to engage in or conduct betting on races or sporting events; or
- (c) an offshore betting operator granted an exemption by the Commission under this section;

offshore bet means a bet made —

- (a) on a race, or on an approved sporting event, conducted in Australia;
- (b) by telephone or electronically by means of the internet, subscription television or any other on-line communications system; and
- (c) with a person who is outside the State (including a person who is outside Australia).

- (2) A person in this State who makes an offshore bet with a person who the person making the bet knows, or would be reasonably expected to know, is not an authorised person commits an offence.

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

- (3) A person who —
- (a) is in possession of a record that is kept or used in connection with, or that relates to, an offshore bet; and
 - (b) knows, or would be reasonably expected to know, that the person with whom the offshore bet was made is not an authorised person,

commits an offence.

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

- (4) On an application in a form approved by the Commission accompanied by the prescribed fee, and on such supporting information as the Commission may direct being furnished to the satisfaction of the Commission, the Commission may grant

an offshore betting operator an exemption for the purposes of this section.

- (5) The Commission may refuse to grant an offshore betting operator an exemption for the purposes of this section if the Commission, having regard to —
- (a) whether the jurisdiction which granted the authorisation to engage in or conduct betting on races or sporting events applies similar standards to those that would apply to an authorisation granted in Australia; and
 - (b) any arrangements made by the offshore betting operator with Australian racing or sporting organisations in relation to engaging in or conducting betting on races or sporting events,

is satisfied that the exemption would not be in the public interest.

[Section 27A inserted by No. 35 of 2003 s. 90; amended by No. 70 of 2006 s. 8; No. 29 of 2009 s. 11.]

[27B, 27C. Deleted by No. 29 of 2009 s. 12.]

27D. Publication of WA race fields restricted

- (1) Section 27D applies to —
- (a) a person who in this State or elsewhere —
 - (i) carries on the business or vocation of, or acts as, a bookmaker; or
 - (ii) conducts betting by the operation of a totalisator; or
 - (iii) operates a betting exchange (however described); or
 - (iv) gains or endeavours to gain a livelihood wholly or partly by making bets;
- or

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(b) a person who is an employee or agent of a person referred to in paragraph (a).

(2A) A person to whom this section applies who, in this State or elsewhere, publishes or otherwise makes available a WA race field in the course of business commits an offence unless the person —

(a) is a domestic betting operator who —

- (i) is authorised to do so by an authorisation; and
- (ii) complies with any condition that is prescribed by the regulations for the purposes of section 27F(1);

or

(b) is an offshore betting operator who —

- (i) is authorised to do so by an approval; and
- (ii) complies with any condition to which the approval is subject.

Penalty: a fine of \$5 000.

(2) On the application of an offshore betting operator and the payment of the prescribed fee, the Commission may, by notice in writing, give an approval authorising the operator to publish or otherwise make available WA race fields specified in the notice or of a class specified in the notice.

(3) An approval may be unconditional or subject to one or more conditions specified in the notice.

(4A) An approval is subject to the following conditions —

- (a) that the holder of the approval provide the Commission or an officer of RWWA approved in writing by the Commission with prescribed information and access in a prescribed manner;
- (b) that the holder of the approval comply with prescribed conditions for cooperating with authorised officers of the Commission and the Chief Steward of RWWA

relating to the preservation of the integrity and reputation of racing in the State.

- (4) The Commission may, by notice in writing, amend, suspend or revoke an approval.
- (5) Before deciding —
 - (a) to give or to refuse to give an approval; or
 - (b) to impose one or more conditions on an approval; or
 - (c) to amend, suspend or revoke an approval,

the Commission is to have regard to the prescribed criteria.

- (6) Without limiting any other power of the Commission under this section, the Commission may refuse to give an approval if satisfied that the approval would not be in the public interest.
- (7) If the Commission decides —
 - (a) to refuse to give an approval; or
 - (b) to impose one or more conditions on an approval; or
 - (c) to amend, suspend or revoke an approval,

the Commission is to give notice in writing of the decision and the reasons for the decision to the person applying for, or holding, the approval.

[Section 27D inserted by No. 70 of 2006 s. 9(1); amended by No. 29 of 2009 s. 13.]

27E. Confidentiality

- (1) This section applies to the following —
 - (a) a member of the Commission;
 - (b) an officer or employee who provides or has provided services to the Commission under the *Gaming and Wagering Commission Act 1987* section 18(1);

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- (c) a consultant who is or has been engaged by the Commission under the *Gaming and Wagering Commission Act 1987* section 18(3);
 - (d) an officer or former officer of RWWA who is or has been approved in writing by the Commission under section 27D(4A)(a) or 27F(2)(a) (an **approved officer**).
- (2) A person to whom this section applies must not, directly or indirectly, record, disclose or make use of any information provided to the Commission or an approved officer under section 27D(4A)(a) or 27F(2)(a) except —
- (a) for the purpose of performing functions under this Act or another written law; or
 - (b) in the case of an approved officer, the disclosure of information relating to the preservation of the integrity and reputation of racing in the State to the Integrity Assurance Committee established under the *Racing and Wagering Western Australia Act 2003* section 47(1); or
 - (c) as required under another written law; or
 - (d) with the written consent of the person to whom the information relates; or
 - (e) in other prescribed circumstances.

Penalty: a fine of \$10 000 or imprisonment for 12 months.

- (3) Subsection (2) does not apply to the extent to which the information disclosed is summary or statistical information that could not reasonably be expected to enable particulars relating to any person to be ascertained.

[Section 27E inserted by No. 29 of 2009 s. 14.]

27F. Authorisation of publication of WA race fields by domestic betting operators

- (1) Subject to this section and compliance with any condition that is prescribed by the regulations for the purposes of this subsection, a domestic betting operator is in this State and elsewhere

authorised to publish or otherwise make available a WA race field.

- (2) An authorisation is subject to the following conditions —
 - (a) that the domestic betting operator provide the Commission or an officer of RWWA approved in writing by the Commission with prescribed information and access in a prescribed manner;
 - (b) that the domestic betting operator comply with prescribed conditions for cooperating with authorised officers of the Commission and the Chief Steward of RWWA relating to the preservation of the integrity and reputation of racing in the State.
- (3) The Commission may, by notice in writing —
 - (a) cancel the authorisation of a domestic betting operator;
or
 - (b) suspend the authorisation of a domestic betting operator for a period specified in the notice.
- (4) Before deciding to cancel or suspend the authorisation of a domestic betting operator, the Commission is to have regard to the prescribed criteria relating to a domestic betting operator.
- (5) If the Commission has reason to cancel or suspend the authorisation of a domestic betting operator, it is not to do so without giving the operator an opportunity to show cause why the authorisation should not be cancelled or suspended.
- (6) If the Commission decides to cancel or suspend the authorisation of a domestic betting operator, the Commission is to give notice in writing of the decision and the reasons for the decision to the operator.
- (7) If an authorisation of a domestic betting operator is cancelled, the operator may apply in a form approved by the Commission, after the date specified by the Commission in the notice given under subsection (6), for restoration of the authorisation.

s. 27G

- (8) An application under subsection (7) is to be accompanied by the prescribed fee (if any).

[Section 27F inserted by No. 29 of 2009 s. 14.]

27G. Liability of persons who occupy a position of authority in a body corporate

- (1) If a body corporate commits an offence against this Act, and it is proved that —
- (a) the offence was committed with the consent or connivance of a person who occupies a position of authority in the body corporate; or
 - (b) a person who occupies a position of authority in the body corporate failed to exercise such due diligence to prevent the commission of the offence as ought to have been exercised having regard to the nature of the person's functions and to all other circumstances,

the person commits the same offence.

- (2) A person may be proceeded against and convicted of an offence against this Act by virtue of subsection (1) whether or not the body corporate has been proceeded against and convicted of the offence.

[Section 27G inserted by No. 70 of 2006 s. 10(1).]

27H. Liability of natural persons, partners, bodies corporate and officers

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

- (a) each of the partners; or
- (b) the body corporate,

as the case may be, is to be treated as having committed an offence and is liable to the penalty prescribed for the offence committed by the manager, employee or agent of the partnership or body corporate.

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

[Section 27H inserted by No. 70 of 2006 s. 10(1).]

28. Forfeiture of betting material and money in certain cases

- (1) A court recording a conviction of a charge of an offence against this Act, may order that betting material found and produced in evidence at the hearing of the charge be destroyed, and that money found on or in a place used for betting contrary to the provisions of this Act be forfeited to the Crown.

s. 28A

- (2) Where money is found in the possession of an offender convicted of betting, contrary to this Act, and is proved to have been received in connection with that betting, the court shall order that the money be forfeited to the Crown.

[Section 28 amended by No. 11 of 1992 s. 50.]

28A. Search warrant

- (1) If it appears to a justice on an application supported by evidence on oath before that justice that there are reasonable grounds for suspecting that unlawful betting is or is about to be carried on in or upon any place or public place the justice may give to any member of the Police Force or authorised officer a warrant in the prescribed form.
- (2) A warrant so given authorises the holder, with such assistance as may be necessary, —
- (a) to enter into and upon and search the place or public place named in the warrant at any time during the day or night and to open and break open if necessary and search all things found therein or thereupon;
 - (b) to use force if necessary in making entry whether by breaking open doors or otherwise;
 - (c) to search all persons found therein or thereupon;
 - (d) to arrest all persons found therein or thereupon and to detain them until they are dealt with according to law;
 - (e) to seize all betting material and money found therein or thereupon or upon the persons referred to in paragraph (c) that may reasonably be supposed to have been used or designed for use in connection with or in relation to such suspected unlawful betting; and
 - (f) to detain all such betting material and money until its owner or owners appear before a court of summary jurisdiction to claim the betting material or money, and satisfy the court how and for what use or purposes it was

intended, or it is dealt with in accordance with the provisions of section 28.

- (3) In this section **unlawful betting** means any contravention of or failure to observe any provision of section 23, 24, 27 or 27A.
- (4) No female person shall be searched under authority of a warrant given pursuant to this section, except by a female member of the Police Force and in the presence of female persons only.
- (5) The court of summary jurisdiction 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 the court 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 court 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 28A inserted by No. 14 of 1961 s. 2; amended by No. 63 of 1995 s. 75; No. 13 of 2002 s. 23; No. 35 of 2003 s. 91; No. 59 of 2004 s. 141; No. 84 of 2004 s. 80; No. 70 of 2006 s. 11; No. 29 of 2009 s. 15.]

28B. Prima facie evidence of offence

Where, on the hearing by a court of a charge of an offence against section 23, 24, 27 or 27A —

- (a) the evidence of the prosecution is such as to raise in the mind of the court a reasonable suspicion that the person charged 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) the court is of opinion that any betting material or money that has to the satisfaction of that court been proved to have been found in any place or public place

s. 28C

wherein it was suspected that unlawful betting was carried on and entered under a warrant given under section 28A and to have been so found in circumstances that in the mind of the court raises a reasonable suspicion that the betting material or money was used or designed for use in contravention of this Act, such finding shall be deemed prima facie evidence of the commission by the accused person of the offence charged; 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.

[Section 28B inserted by No. 14 of 1961 s. 2; amended by No. 63 of 1995 s. 76; No. 35 of 2003 s. 92; No. 84 of 2004 s. 80; No. 70 of 2006 s. 12; No. 29 of 2009 s. 16.]

28C. Offences in respect of conducting totalisator agencies

A person who —

- (a) having the management or control of any totalisator agency, authorises 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 RWWA; or
 - (d) purchases any totalisator ticket from any person not authorised to sell it,

commits an offence.

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

[Section 28C inserted by No. 63 of 1995 s. 77; amended by No. 35 of 2003 s. 103.]

28D. Penalty for acting as totalisator agent

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.

[Section 28D inserted by No. 63 of 1995 s. 78.]

s. 28E

28E. Penalty for officers of RWWA, and racing clubs and employees of totalisators, accepting instructions as to investments on totalisators

Subject to the provisions of section 28F, any —

- (a) officer, agent or servant of RWWA 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.

[Section 28E inserted by No. 63 of 1995 s. 79; amended by No. 35 of 2003 s. 103.]

28F. Non-application of sections 28D and 28E

- (1) The provisions of sections 28D and 28E do not apply —
 - (a) to RWWA, any manager, secretary, officer, employee or agent of RWWA, or to any employee of the agent, in respect of any bet properly made through or with RWWA 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 RWWA.
- (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 RWWA; 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 RWWA, after those dividends have been declared on the totalisator or by RWWA.

[Section 28F inserted by No. 63 of 1995 s. 80; amended by No. 35 of 2003 s. 103.]

28G. Penalty for accepting bets after closing time

- (1) Any manager, secretary, officer, employee or agent of RWWA, 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.
- (2) Subsection (1) does not apply to a bet received after the start of a sporting event but before the end of that event if —
 - (a) the event has been, or is of a class of event that has been, approved in writing by the Commission for the purpose of this subsection; or
 - (b) the bet is received in the course of the participation by RWWA in —
 - (i) a combined totalisator pool scheme under the *Racing and Wagering Western Australia Act 2003* section 59; or
 - (ii) a jointly operated fixed odds wagering system under the *Racing and Wagering Western Australia Act 2003* section 61.

[Section 28G inserted by No. 63 of 1995 s. 81; amended by No. 35 of 2003 s. 103; No. 29 of 2009 s. 17.]

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29. Penalty for providing credit

An officer, agent or employee of RWWA or any employee of an agent of RWWA who accepts a bet through RWWA involving the provision of credit by RWWA, contrary to the provisions of section 63 of the RWWA Act, commits an offence.

Penalty: \$5 000.

[Section 29 inserted by No. 40 of 1999 s. 36; amended by No. 35 of 2003 s. 93 and 103.]

30. General penalty

- (1) A person who contravenes or attempts to contravene any provision of this Act, the regulations or the Rules of Betting prescribed is liable to the penalty expressly provided for the offence, but if no penalty is expressly provided for the offence is liable —
 - (a) if the contravention is a continuing offence, to a penalty of a sum not exceeding \$1 000, and in addition to a penalty of a sum not exceeding \$50 for each day the offence continues; or
 - (b) if the contravention is not a continuing offence, to a penalty not exceeding \$1 000.
- (2) Any holder of a licence or authorisation under this Act who —
 - (a) causes, suffers or permits any other person to contravene a provision of this Act, the regulations or Rules of Betting prescribed; or
 - (b) takes part in a betting transaction knowing that the transaction involves such a contravention,

commits an offence and is liable to the punishment to which a person convicted of that contravention would be liable.

[Section 30 amended by No. 11 of 1992 s. 52.]

30A. Offences to be dealt with by a magistrate

A court of summary jurisdiction dealing with an offence under this Act is to be constituted by a magistrate.

[Section 30A inserted by No. 59 of 2004 s. 141.]

31. Conduct of betting

- (1) A bookmaker shall not —
- (a) employ —
 - (i) in the business of the bookmaker or as an agent in relation to that business, any person other than a licensed employee or licensed manager; or
 - (ii) on a race course, a person who does not hold a permit from the committee or other authority controlling that race course in respect of the aspects of the business to be carried on by that person;
 - (b) except in so far as the licence of a licensed employee may authorise that employee to carry on a specific aspect of the business of that bookmaker, in the case of a bookmaker who is a natural person, fail personally —
 - (i) to conduct the business;
 - (ii) to make every bet; and
 - (iii) in respect of each bet other than a bet made by telephone in accordance with the regulations, to write and, unless the regulations provide otherwise, deliver to the bettor the betting ticket;
 - (c) allow any other person to have an interest, financial or otherwise, in the business of that bookmaker, whether that interest is direct or indirect;
 - (d) pay or promise to pay to a person a sum of money the amount of which in any way depends upon —

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- (i) the amount of the profit or loss sustained by the bookmaker in betting related to the business of that bookmaker; or
 - (ii) the results of that betting;
 - (e) pay or give, or promise to pay or give, to a person any payment, fee, commission, remuneration, reward or any valuable consideration whatsoever in consideration of that person on behalf of any other person —
 - (i) making; or
 - (ii) taking,bets with that bookmaker;
 - (f) receive, or agree or promise to receive, as the consideration for a bet the delivery of, or an agreement or promise to deliver, property other than money;
 - (g) refuse or neglect to pay a bet as and when directed by the Commission; or
 - (h) bet on any event other than —
 - (i) a race or the result of a race; or
 - (ii) an approved sporting event, or an approved contingency related to an approved sporting event.
- (2) A bookmaker who refuses or neglects to repay the bettor, immediately on demand, any money received by the bookmaker in connection with a bet made contrary to any provision of this Act, the regulations or the Rules of Betting prescribed, commits an offence.

[Section 31 inserted by No. 11 of 1992 s. 54; amended by No. 63 of 1995 s. 83; No. 17 of 1998 s. 23; No. 13 of 2002 s. 24; No. 35 of 2003 s. 95 and 102.]

31A. Evidence

- (1) A person is not excused from giving information or producing records or any other thing when required to do so under this Act on the ground that the information, records or other thing might

tend to incriminate him, but his answer to any question asked, his giving of any other information, the production by him of any records or other thing or his compliance with the requirement in any other respect is not admissible in evidence against him in any criminal proceedings, other than proceedings under this Act.

- (2) In any proceedings under this Act —
- (a) it shall not be necessary to prove the appointment of a member of the Commission, and all courts and persons acting judicially shall take judicial notice of a signature attached or appended to a document purporting to be issued under this Act if the signature purports to be that of a person who at the relevant time is or was the holder of such an office, unless the contrary is proved;
 - (b) a document signed by a member of the Commission stating that at the time or during the period stated in the document —
 - (i) a person named in the document was an authorised person or permittee for the purposes of this Act specified in the document; or
 - (ii) a licence, permit or approval was granted, a requirement was made, or a direction or notice was given, or was in force or had effect, or had been amended, or was not in force or was of no effect, in relation to the circumstances specified in the document, or had been served on any person, under this Act,shall be evidence of the facts stated and, in the absence of evidence to the contrary, conclusive evidence;
 - (c) a document or writing purporting to be a copy of any licence, permit or approval granted, or of any requirement made or direction or notice given, under this Act shall be evidence of the licence, permit, approval, certificate, requirement, direction or notice of

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which it purports to be a copy and, in the absence of evidence to the contrary, conclusive evidence;

- (d) an averment that —
- (i) a person is of a specified age or is under or over a specified age;
 - (ii) that any place at which an offence was committed was a place to which a licence, permit or approval applies or did not apply;
 - (iii) a specified term, condition, restriction or prohibition had effect in relation to any specified licence, permit or approval;
 - (iv) in proceedings against a person in that person's capacity as the holder of a licence, permit or approval, that the person is the holder of a specified licence, permit or approval; or
 - (v) that a person is a person to whom a specified licence, permit or approval was not issued,

shall be evidence of the facts stated and, in the absence of evidence to the contrary, conclusive evidence;

- (e) where an officer authorised for the purpose by the Commission or a racing club, a police officer or a person acting at the request of such an authorised officer or police officer, enters into any bet and another person is charged with an offence arising out of the bet, on the hearing of the charge that authorised officer, police officer or person acting on request —
- (i) is deemed not to be an accomplice of the person charged and not to be guilty of an offence; and
 - (ii) may give evidence,

and his evidence shall be deemed not to be the evidence of an accomplice;

- (f) a person may be convicted on the uncorroborated evidence of an accomplice, and shall not be acquitted by reason only that the only evidence is the uncorroborated

evidence of an accomplice unless the truth of that evidence is suspect; and

- (g) an act, admission or statement of a licensed manager, an employee or agent of a person charged with an offence is admissible as evidence, whether it is done, made or given in the presence of that person or not.
- (3) An officer authorised by the Commission and any police officer may seize any betting material, money or other thing which he has reasonable cause to believe may be required as evidence for the purpose of proceedings in respect of an offence under this Act or which appears to him to contravene a condition of any licence, permit or approval under this Act.

[Section 31A inserted by No. 11 of 1992 s. 55; amended by No. 17 of 1998 s. 24; No. 13 of 2002 s. 25; No. 35 of 2003 s. 102; No. 84 of 2004 s. 80; No. 59 of 2006 s. 73.]

32. Disputes as to bets with bookmakers

- (1) A question or dispute as to whether a bet alleged to have been made with a bookmaker on a race course was so made, or as to the amount payable in respect of such a bet —
- (a) shall be referred in the first instance to and determined by the stewards of the race meeting, or as the committee or other authority controlling the race course may direct; and
 - (b) may, by any party to the bet affected by that determination, be referred to the Commission on an appeal from that determination made under subsection (2).
- (2) An appeal from a determination made in the first instance shall be referred to the Commission by notice in writing delivered to the Commission —
- (a) if the race course is in the metropolitan region, within 3 days; or
 - (b) in any other case, within 7 days,

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of that determination, but may be heard at the discretion of the Commission where special circumstances exist if lodged otherwise, and shall be decided by the Commission as an administrative act.

- (3) Where any question or dispute as to a bet relates only to a proportion of the amount otherwise payable then payment shall be made on the bet in so far as it is not so questioned or disputed.
- (4) A bookmaker shall abide by —
 - (a) any determination in the first instance made under subsection (1), but if it is the intention of the bookmaker to withhold payment of the bet pending a decision of the Commission on an appeal made under subsection (2) the bookmaker shall give to any other party to the question or dispute an acknowledgment in writing setting out the amount, nature and circumstances of the bet as alleged by the bookmaker and the fact of any determination made; and
 - (b) any decision of the Commission made under subsection (2).
- (5) Where a person is entitled to be given an acknowledgment of an alleged bet under subsection (4)(a), and payment on that bet is not made by the bookmaker, then on the expiry of the period permitted by subsection (2) if an appeal in respect of a determination of the question or dispute has not been referred to the Commission for decision that person may apply to the Commission for a direction that the bet, on terms decided by the Commission, shall be payable by the bookmaker.

[Section 32 inserted by No. 11 of 1992 s. 56; amended by No. 35 of 2003 s. 102; No. 38 of 2005 s. 15.]

32A. Disciplinary powers

- (1) The powers conferred by this section shall be exercised by the Commission administratively, but the Commission shall give

the holder of a licence, or of an authorisation to possess or operate a totalisator, under this Act an opportunity to show cause why such a power should not be exercised in relation to that holder.

- (2) Where the Commission, having given the person referred to in subsection (1) an opportunity to show cause, is satisfied that the holder of a licence or such an authorisation —
- (a) has —
 - (i) been convicted of an offence under this Act;
 - (ii) at a material time employed or engaged, in relation to the business carried on under the licence or such an authorisation, a person who in the course of that business committed an offence under this Act of which that person was convicted; or
 - (iii) has been convicted, or so employed or engaged a person who was convicted, of an offence, other than an offence under this Act, but has not notified the Commission of that conviction;
 - (b) notwithstanding that proceedings for an offence under this Act have not been taken, or are pending, has contravened —
 - (i) a provision of this Act, the regulations or the Rules of Betting prescribed; or
 - (ii) a term or condition of the licence or such an authorisation, or has caused or permitted a licensed employee or licensed manager so to do;
 - (c) is guilty of conduct which renders it undesirable in the public interest that the licence or such an authorisation should continue to be held;
 - (d) has become incapable of properly conducting the business, or any aspect of the business, of a bookmaker;
 - (e) in the case of a partnership, does not comply with any one or more of the matters referred to in section 11B(1)

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that must be satisfied if a partnership is to continue to be eligible to be licensed as a bookmaker; or

- (f) in the case of a body corporate, does not comply with any one or more of the matters referred to in section 11C(1) that must be satisfied if a body corporate is to continue to be eligible to be licensed as a bookmaker,

the Commission may take disciplinary action.

- (3) Where the Commission determines that a proper cause for disciplinary action exists the Commission may by order —
 - (a) issue a reprimand;
 - (b) impose a condition on, or otherwise limit the authority conferred by, the licence or such an authorisation;
 - (c) vary or cancel any term or condition to which the licence or such an authorisation is subject;
 - (d) suspend the operation of the licence or such an authorisation, or of any term or condition of the licence or such an authorisation —
 - (i) until further order; or
 - (ii) for a specified period;
 - (e) cancel the licence or such an authorisation;
 - (f) require the holder of the licence or such an authorisation to enter into a bond or otherwise give security for future conduct; and
 - (g) give directions as to the conduct of business to which the licence or such an authorisation relates.
- (4) Where the Commission is satisfied that the holder of a licence as a bookmaker or of such an authorisation —
 - (a) has carried on, or attempted to carry on, the business of a bookmaker or the operation of a totalisator authorised under this Act during any period when the operation of that licence or authorisation was suspended; or

- (b) has committed, or has caused or permitted the commission of, a continuing breach of a provision the contravention of which was the subject of an order made under this section that has continuing effect,

the Commission may with immediate effect make a further order that the licence or authorisation shall be cancelled.

- (5) An order made under this section —
 - (a) may be varied or revoked, as the Commission thinks fit; and
 - (b) subject to subsection (4), takes effect on written notice of it being given to the holder of the licence or such an authorisation.
- (6) Where the operation of a licence or such an authorisation is suspended or a licence or such an authorisation is cancelled —
 - (a) the Commission may advertise the fact, and call for claims from persons to whom the holder or former holder is indebted in respect of betting transactions;
 - (b) section 11E(3) and (4) apply in relation to the application of any security or the termination of any bond that relates to the licence or such an authorisation;
 - (c) the holder or former holder shall upon demand reimburse the Commission for any costs incurred under paragraphs (a) or (b); and
 - (d) the obligation under any security lodged is not thereby discharged and its validity is not affected.

[Section 32A inserted by No. 11 of 1992 s. 57; amended by No. 11 of 1992 s. 63; No. 13 of 2002 s. 26; No. 35 of 2003 s. 102.]

Part 5 — Miscellaneous

[Heading inserted by No. 35 of 2003 s. 101(5).]

33. Regulations

- (1) The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed for giving effect to the purposes of this Act, and, in particular, may by the regulations —
 - (a) make provision for betting under this Act on sporting events and contingencies related to those events, the recording of such bets and as to the liabilities arising out of such bets;
 - (b) provide for —
 - (i) licensing of bookmakers;
 - (ii) licensing of bookmakers' employees;
 - (iia) the licensing of a manager of a bookmaker that is a body corporate or a partnership;
 - (iii) classification of licences;
 - (iv) terms and conditions upon which licences or respective classes of licences may be obtained and which shall be observed by the holders of licences;
 - (v) payments to the Commission of, and amounts payable as, fees in respect of licences and applications for licences or respective classes of licences, and for different amounts to be payable in respect of different classes of licences;
 - (va) payments to the Commission of, and amounts payable as, fees in respect of permits within the meaning of section 4A and applications for those permits;

- (vi) variation, suspension, and cancellation of licences, and the grounds upon which licences may be varied, suspended, or cancelled;
- (vii) bookmakers being required to keep accounts and records and furnish particulars of their betting transactions, and prescribing the form of betting tickets authorised to be used, the manner of cancellation of betting tickets, the particulars to be entered in the betting books and other matters relevant to those accounts, records, and particulars;
- (viii) prohibiting or restricting of advertising by bookmakers, their agents, employees and licensed managers;
- (ix) the conduct of persons and their agents and employees;
- (x) the authorisation, regulation and control of betting by the use of totalisators and betting with, or through, RWWA or a totalisator agency, any authorisation under this Act to possess and operate a totalisator, and the licensing, commission and fees to be applicable;
- (xi) bookmakers being required to give security for the due observance of this Act and the regulations, and of the terms and conditions of their licences;
- [(xii) deleted]*
- (xiii) the payment and charges in respect of matters other than licences or applications for licences;
- (xiv) the supply and use of betting material;
- (xv) the assessment, payment and recovery of bookmakers' betting tax or of bookmakers' betting levy, the kinds of bet that may be made or accepted and Rules of Betting regulating

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betting by or with bookmakers generally or in specific circumstances, the maximum amount which a bookmaker may be obliged to accept on any one bet, bets with other bookmakers, and betting boards;

- (xvi) the authorisation of the possession and operation of totalisators by racing clubs and, generally, for the duties of racing clubs in relation to the administration of this Act;
 - (xvii) the general administration of this Act; and
 - (xviii) imposing a monetary penalty for breach of a regulation so made, or the breach of a term or condition of a licence, not greater than the amount prescribed as a general penalty under section 30.
- (2) Any rules made under section 120 of the RWWA Act, regulations made under section 121 of the RWWA Act or regulations made under this Act in relation to a totalisator, so far as they are applicable, apply in relation to bets made through RWWA 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 RWWA and transmitted to a totalisator.
- (3) In subsection (2) a reference to rules or regulations made under the RWWA Act includes a reference to rules or regulations continued under section 48 of the *Racing and Gambling Legislation Amendment and Repeal Act 2003* and in force.

[Section 33 amended by No. 113 of 1965 s. 8(1); No. 77 of 1976 s. 19; No. 6 of 1987 s. 15; No. 78 of 1987 s. 5; No. 58 of 1990 s. 11; No. 11 of 1992 s. 29, 58 and 64; No. 63 of 1995 s. 84; No. 17 of 1998 s. 25; No. 23 of 1998 s. 20; No. 13 of 2002 s. 27; No. 35 of 2003 s. 96, 102 and 103.]

[34.] *Deleted by No. 35 of 2003 s. 97.]*

[35. Deleted by No. 63 of 1995 s. 86.]

[36. Deleted by No. 35 of 2003 s. 98.]

[Schedule 1 deleted by No. 35 of 2003 s. 99.]

[Schedule 2 deleted by No. 35 of 2003 s. 100.]

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

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

[Heading inserted by No. 13 of 2002 s. 29.]

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

[Schedule 3 inserted by No. 13 of 2002 s. 29; amended by No. 35 of 2003 s. 102.]

Notes

¹ This is a compilation of the *Betting Control Act 1954* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Betting Control Act 1954</i>	63 of 1954 (3 Eliz. II No. 63)	30 Dec 1954	1 Aug 1955 (see s. 2 and <i>Gazette</i> 29 Jul 1955 p. 1767)
<i>Betting Control Act Amendment Act 1956</i>	50 of 1956 (5 Eliz. II No. 50)	18 Dec 1956	18 Dec 1956
<i>Betting Control Act Continuance Act 1957</i>	36 of 1957 (6 Eliz. II No. 36)	18 Nov 1957	18 Nov 1957
Reprint of the <i>Betting Control Act 1954</i> approved 16 Feb 1959 in Vol. 14 of Reprinted Acts (includes amendments listed above)			
<i>Betting Control Act Amendment Act 1959</i>	76 of 1959 (8 Eliz. II No. 76)	14 Dec 1959	21 Dec 1959 (see s. 2 and <i>Gazette</i> 18 Dec 1959 p. 3339)
<i>Betting Control Act Amendment Act 1960</i>	49 of 1960 (9 Eliz. II No. 49)	28 Nov 1960	31 Dec 1960 (see s. 2 and <i>Gazette</i> 23 Dec 1960 p. 4074)
<i>Betting Control Act Amendment Act (No. 2) 1960</i>	66 of 1960 (9 Eliz. II No. 66)	2 Dec 1960	2 Dec 1960
<i>Anzac Day Act 1960 s. 9</i>	73 of 1960 (9 Eliz. II No. 73)	12 Dec 1960	12 Dec 1960
<i>Betting Control Act Amendment Act 1961</i>	14 of 1961 (10 Eliz. II No. 14)	20 Oct 1961	20 Oct 1961
Reprint of the <i>Betting Control Act 1954</i> approved 11 Apr 1963 in Vol. 17 of Reprinted Acts (includes amendments listed above)			
<i>Betting Control Act Amendment Act 1963</i>	28 of 1963 (12 Eliz. II No. 28)	13 Nov 1963	13 Nov 1963

Betting Control Act 1954

Short title	Number and year	Assent	Commencement
<i>Decimal Currency Act 1965</i>	113 of 1965	21 Dec 1965	Act other than s. 4-9: 21 Dec 1965 (see s. 2(1)); s. 4-9: 14 Feb 1966 (see s. 2(2))
<i>Acts Amendment (Commissioner of State Taxation) Act 1970 Pt. IX</i>	21 of 1970	8 May 1970	1 Jul 1970 (see s. 2 and <i>Gazette</i> 26 Jun 1970 p. 1831)
<i>Betting Control Act Amendment Act 1970</i>	66 of 1970	17 Nov 1970	17 Nov 1970
<i>Betting Control Act Amendment Act (No. 2) 1970</i>	75 of 1970	17 Nov 1970	1 Jan 1971 (see s. 2)
Reprint of the Betting Control Act 1954 approved 24 Mar 1971 (includes amendments listed above)			
<i>Age of Majority Act 1972 s. 6(2)</i>	46 of 1972	18 Sep 1972	1 Nov 1972 (see s. 2 and <i>Gazette</i> 13 Oct 1972 p. 4069)
<i>Betting Control Act Amendment Act 1976</i>	77 of 1976	18 Oct 1976	10 Dec 1976 (see s. 2 and <i>Gazette</i> 10 Dec 1976 p. 4879)
<i>Betting Control Act Amendment Act 1978</i>	78 of 1978	27 Oct 1978	27 Oct 1978
Reprint of the Betting Control Act 1954 approved 1 Jun 1979 (includes amendments listed above)			
<i>Acts Amendment (Gaming and related provisions) Act 1985 Pt. V</i>	29 of 1985	24 Apr 1985	1 Jun 1985 (see s. 2 and <i>Gazette</i> 31 May 1985 p. 1877)
<i>Acts Amendment (Betting Control) Act 1985 Pt. II</i>	34 of 1985	24 Apr 1985	24 Apr 1985 (see s. 2)
<i>Betting Control Amendment Act 1987</i>	6 of 1987	29 May 1987	6 Nov 1987 (see s. 2 and <i>Gazette</i> 6 Nov 1987 p. 4069)
<i>Acts Amendment and Repeal (Gaming) Act 1987 Pt. II</i>	74 of 1987	26 Nov 1987	2 May 1988 (see s. 2 and <i>Gazette</i> 29 Apr 1988 p. 1292)
<i>Betting Control Amendment Act (No. 2) 1987</i>	78 of 1987	26 Nov 1987	4 Mar 1988 (see s. 2 and <i>Gazette</i> 4 Mar 1988 p. 665)
<i>Acts Amendment (Betting Tax and Stamp Duty) Act (No. 2) 1990 Pt. 3</i>	58 of 1990	17 Dec 1990	1 Aug 1989 (see s. 2)

Short title	Number and year	Assent	Commencement
<i>Acts Amendment and Repeal (Betting) Act 1992</i> Pt. 3 and 4	11 of 1992	16 Jun 1992	Pt. 3: 10 Jul 1992 (see s. 2(1) and <i>Gazette</i> 10 Jul 1992 p. 3185); Pt. 4: 31 Jul 1992 (see s. 2(2) and <i>Gazette</i> 10 Jul 1992 p. 3185)
Reprint of the <i>Betting Control Act 1954</i> as at 20 Aug 1992 (includes amendments listed above)			
<i>Acts Amendment (Public Sector Management) Act 1994</i> s. 3(2)	32 of 1994	29 Jun 1994	1 Oct 1994 (see s. 2 and <i>Gazette</i> 30 Sep 1994 p. 4948)
<i>Acts Amendment (Racing and Betting Legislation) Act 1995</i> Pt. 3	63 of 1995	27 Dec 1995	28 Jun 1996 (see s. 2 and <i>Gazette</i> 25 Jun 1996 p. 2901)
<i>Local Government (Consequential Amendments) Act 1996</i> s. 4	14 of 1996	28 Jun 1996	1 Jul 1996 (see s. 2)
Reprint of the <i>Betting Control Act 1954</i> as at 20 Feb 1997 (includes amendments listed above)			
<i>Statutes (Repeals and Minor Amendments) Act 1997</i> s. 22	57 of 1997	15 Dec 1997	15 Dec 1997 (see s. 2(1))
<i>Betting Control Amendment Act 1998</i> ³	17 of 1998	15 Jun 1998	s. 1 and 2: 15 Jun 1998; Act other than s. 1 and 2: 1 Aug 1998 (see s. 2 and <i>Gazette</i> 21 Jul 1998 p. 3825)
<i>Western Australian Greyhound Racing Association Amendment Act 1998</i> s. 20	23 of 1998	30 Jun 1998	1 Aug 1998 (see s. 3 and <i>Gazette</i> 21 Jul 1998 p. 3825)
<i>Acts Amendment (Fixed Odds Betting) Act 1999</i> Pt. 3	40 of 1999	16 Nov 1999	15 Jan 2000 (see s. 2 and <i>Gazette</i> 14 Jan 2000 p. 153)
<i>Corporations (Consequential Amendments) Act 2001</i> Pt. 7	10 of 2001	28 Jun 2001	15 Jul 2001 (see s. 2 and <i>Gazette</i> 29 Jun 2001 p. 3257 and <i>Cwlth Gazette</i> 13 Jul 2001 No. S285)
Reprint of the <i>Betting Control Act 1954</i> as at 12 Apr 2002 (includes amendments listed above)			

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Short title	Number and year	Assent	Commencement
<i>Betting Legislation Amendment Act 2002 Pt. 2</i>	13 of 2002	8 Jul 2002	21 Sep 2002 (see s. 2 and <i>Gazette</i> 20 Sep 2002 p. 4693)
<i>Racing and Gambling Legislation Amendment and Repeal Act 2003 Pt. 7 Div. 1</i> ^{4,5}	35 of 2003	26 Jun 2003	s. 74, 76(b), (d)-(g), 77(1), 80, 81(1)-(4), 82-84, 95, 98: 1 Aug 2003 (see s. 2 and <i>Gazette</i> 29 Jul 2003 p. 3259); s. 75, 76(a), (c) and (h), 77(2), 78, 79, 81(5) and (6), 85-94, 96, 97 and 99-103: 30 Jan 2004 (see s. 2 and <i>Gazette</i> 30 Jan 2004 p. 397)
<i>Courts Legislation Amendment and Repeal Act 2004 s. 141</i>	59 of 2004	23 Nov 2004	1 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7128)
<i>Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004 s. 80 and 82</i>	84 of 2004	16 Dec 2004	2 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7129 (correction in <i>Gazette</i> 7 Jan 2005 p. 53))
<i>Planning and Development (Consequential and Transitional Provisions) Act 2005 s. 15</i>	38 of 2005	12 Dec 2005	9 Apr 2006 (see s. 2 and <i>Gazette</i> 21 Mar 2006 p. 1078)
Reprint 8: The Betting Control Act 1954 as at 20 Oct 2006 (includes amendments listed above)			
<i>Criminal Investigation (Consequential Provisions) Act 2006 s. 73</i>	59 of 2006	16 Nov 2006	1 Jul 2007 (see s. 2 and <i>Gazette</i> 22 Jun 2007 p. 2838)
<i>Betting and Racing Legislation Amendment Act 2006 Pt. 2</i>	70 of 2006	13 Dec 2006	s. 3, 5-8 and 10: 29 Jan 2007 (see s. 2 and <i>Gazette</i> 23 Jan 2007 p. 181); s. 4, 9, 11 and 12: 9 Jul 2007 (see s. 2 and <i>Gazette</i> 22 Jun 2007 p. 2837)
<i>Liquor and Gaming Legislation Amendment Act 2006 s. 114</i>	73 of 2006	13 Dec 2006	7 May 2007 (see s. 2(2) and <i>Gazette</i> 1 May 2007 p. 1893)
<i>Racing, Wagering and Betting Legislation Amendment and Repeal Act 2007 Pt. 2</i>	8 of 2007	13 Jun 2007	14 Jun 2007 (see s. 2)

Short title	Number and year	Assent	Commencement
Reprint 9: The Betting Control Act 1954 as at 17 Aug 2007 (includes amendments listed above)			
<i>Statutes (Repeals and Miscellaneous Amendments) Act 2009</i> s. 25	8 of 2009	21 May 2009	22 May 2009 (see s. 2(b))
<i>Acts Amendment (Bankruptcy) Act 2009</i> s. 11	18 of 2009	16 Sep 2009	17 Sep 2009 (see s. 2(b))
<i>Racing and Wagering Legislation Amendment Act 2009</i> Pt. 2	29 of 2009	23 Nov 2009	11 Jan 2010 (see s. 2(b) and <i>Gazette</i> 8 Jan 2010 p. 9-10)

² Repealed by the *Acts Amendment and Repeal (Betting) Act 1992*.

³ The *Betting Control Amendment Act 1998* s. 5(2) and (3) read as follows:

“

- (2) An approval which was in force under section 4A of the principal Act immediately before the commencement of this section continues in force, subject to subsection (3), for the remainder of the period for which it would, but for this section, have continued in force, and the principal Act as in force immediately before that commencement continues to apply to and in relation to that approval accordingly.
- (3) An approval continued in force by subsection (2) cannot be renewed, but may be cancelled or suspended under section 4A(8) of the principal Act as in force immediately before the commencement of this section during the period referred to in subsection (2).

”

The *Betting Control Amendment Act 1998* s. 7(2) reads as follows:

“

- (2) An authority in force under section 5(1a) of the principal Act immediately before the commencement of this section (“**the old authority**”) continues in force, subject to the principal Act as amended by this Act, as if —
 - (a) the old authority were an authority given under section 5(2) as inserted by this section (“**the new authority**”); and
 - (b) the premises to which the old authority relates were specified in the new authority.

4 The *Racing and Gambling Legislation Amendment and Repeal Act 2003* s. 19 reads as follows:

“

19. Power to amend regulations

- (1) The Governor, on the recommendation of the Minister, may make regulations amending subsidiary legislation made under any Act.
- (2) The Minister may make a recommendation under subsection (1) only if the Minister considers that each amendment proposed to be made by the regulations is necessary or desirable as a consequence of the enactment of the RWWA Act or this Act.
- (3) Nothing in this section prevents subsidiary legislation from being amended in accordance with the Act under which it was made.

5 The *Racing and Gambling Legislation Amendment and Repeal Act 2003* Pt. 7 Div. 2 reads as follows:

“

Division 2 — Transitional and savings provisions

Subdivision 1 — Preliminary

104. Intention

The intention of the provisions of this Division is that the Commission will, in accordance with these provisions, stand in place of and be the successor to the BCB.

105. Definitions

In this Division, unless the contrary intention appears —

BCB means the Betting Control Board established under the BC Act;

BC Act means the *Betting Control Act 1954*;

Commission means the Gaming and Wagering Commission established under section 4 of the *Gaming and Wagering Commission Act 1987*.

Subdivision 2 — Devolution of the BCB's assets and liabilities

106. Transfer of assets and liabilities to Commission

On and after the appointed day —

- (a) the assets and rights of the BCB vest in the Commission by force of this section;

- (b) the liabilities of the BCB (including a share of a liability) become, by force of this section, the liabilities of the Commission;
- (c) any agreement or instrument relating to the assets, rights and liabilities referred to in paragraphs (a) and (b) has effect, by force of this section, as if the Commission were substituted for the BCB in the agreement or instrument;
- (d) the Commission is a party to any proceedings by or against the BCB commenced before the appointed day;
- (e) any proceeding or remedy that might have been commenced by or available against or to the BCB in relation to the assets, rights and liabilities referred to in paragraphs (a) and (b), may be commenced and are available, by or against or to the Commission;
- (f) any act, matter or thing done or omitted to be done in relation to the assets, rights and liabilities referred to in paragraphs (a) and (b) before the appointed day by, to or in respect of the BCB (to the extent that that act, matter or thing has any force or effect) is to be taken to have been done or omitted by, to or in respect of the Commission;
- (g) the BCB is to deliver to the Commission all registers, papers, documents, minutes, receipts, books of account and other records (however compiled, recorded or stored) relating to —
 - (i) the assets, rights and liabilities referred to in paragraphs (a) and (b); and
 - (ii) proceedings referred to in paragraph (d).

107. Western Australian Betting Control Board Fund

- (1) On the appointed day, any funds standing to the credit of the Western Australian Betting Control Board Fund established under section 9 of the BC Act are —
 - (a) in the case of moneys held by the Board in respect of payments of bookmakers' betting levy made under section 15 of the BC Act in relation to betting of the kind referred to in sections 4A and 4B of the BC Act, to be credited to the Sports Wagering Account referred to in section 110A of the *Gaming and Wagering Commission Act 1987*; and
 - (b) in the case of all other moneys, to be credited to the Gaming and Wagering Commission Account established under section 9 of the *Gaming and Wagering Commission Act 1987*,

and the Western Australian Betting Control Board Fund is then to be closed.

- (2) If in an agreement, instrument or other document there is a reference to the Western Australian Betting Control Board Fund, that reference is, unless the context otherwise requires, to be read or to have effect on and after the appointed day as if it were a reference to the Gaming and Wagering Commission Account established under section 9 of the *Gaming and Wagering Commission Act 1987*.

108. Exemption from State taxation

- (1) In this section —
State tax includes stamp duty chargeable under the *Stamp Act 1921* and any other tax, duty, fee, levy or charge under a law of the State.
- (2) State tax is not payable in relation to —
- (a) anything that occurs by the operation of this Division; or
 - (b) anything done (including a transaction entered into or an instrument or document of any kind made, executed, lodged or given) under this Division, or to give effect to this Division, or for a purpose connected with or arising out of, giving effect to this Division.
- (3) The Treasurer or a person authorised by the Treasurer may, on request by the Commission, certify in writing that —
- (a) a specified thing occurred by the operation of this Division; or
 - (b) a specified thing was done under this Division, or to give effect to this Division, or for a purpose connected with or arising out of giving effect to this Division.
- (4) For all purposes and in all proceedings, a certificate under subsection (3) is conclusive evidence of the matters it certifies, except so far as the contrary is shown.

109. Saving

The operation of section 106 is not to be regarded —

- (a) as a breach of contract or confidence or otherwise as a civil wrong;
- (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities or the disclosure of information;

- (c) as giving rise to any remedy by a party to an instrument or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any assets, right or liability;
- (d) as causing any contract or instrument to be void or otherwise unenforceable; or
- (e) as releasing or allowing the release of any surety.

Subdivision 3 — General transitional provisions

110. Annual report for part of a year

The accountable authority, as defined in the *Financial Administration and Audit Act 1985*, of the BCB is to report in respect of that body as required by section 66 of that Act, but limited to the period from the preceding 1 August to the appointed day, and Division 14 of Part II of that Act applies as if that period were a full financial year.

111. Completion of things commenced

Anything commenced to be done by the BCB under the BC Act before the appointed day may be continued by the Commission so far as the doing of that thing is within the functions of the Commission after the appointed day.

112. Continuing effect of things done

Any act, matter or thing done or omitted to be done before the appointed day by, to or in respect of the BCB, to the extent that that act, matter or thing —

- (a) has any force; and
- (b) is not governed by section 106(f),

is to be taken to have been done or omitted by, to or in respect of the Commission so far as the act, matter or thing is relevant to the Commission.

113. Immunity to continue

Where the BCB had the benefit of any immunity in respect of an act, matter or thing done or omitted before the appointed day, that immunity continues in that respect for the benefit of the Commission.

114. Agreements and instruments generally

- (1) This section applies to any agreement or instrument subsisting immediately before the appointed day that does not come within the provisions of section 106(c).
- (2) Any agreement or instrument to which this section applies —

- (a) to which the BCB was a party; or
 - (b) which contains a reference to the BCB,
- has effect after the appointed day as if —
- (c) the Commission were substituted for the BCB as a party to the agreement or instrument; and
 - (d) any reference in the agreement or instrument to the BCB were (unless the context otherwise requires) a reference to the Commission.

115. BCB to perform necessary transitional functions

- (1) Despite the repeal of section 6 of the BC Act by section 79 of this Act, the BCB continues in existence for the purpose of —
 - (a) reporting as required by section 110; and
 - (b) performing the functions described in section 106(g).
- (2) The accountable authority, as defined in the *Financial Administration and Audit Act 1985*, also continues in existence for the purpose described in subsection (1)(a).

”.