

WESTERN AUSTRALIA.

ANZAC DAY.

9° Elizabeth II., No. LXXIII.

No. 73 of 1960.

(Affected by Act No. 113 of 1965.)

[As amended by Acts:

No. 14 of 1964, assented to 2nd October, 1964;
No. 2 of 1970, assented to 29th April, 1970;

and reprinted pursuant to the Amendments Incorporation Act,
1938.]

AN ACT to amend and consolidate the law relating to the Observance of Anzac Day as a Public Holiday; to establish an Anzac Day Trust Fund; and for other and incidental purposes.

[Assented to 12th December, 1960.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *Anzac Day Act, 1960-1970*.

Short title
and citation.
Amended by
No. 2 of
1970, s. 1.

2. The Anzac Day Act, 1923 (Act No. 35 of 1923) is repealed.

Repeal.

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Interpre-
tation.
Amended by
No. 14 of
1964, s. 2.

3. In this Act—

“Anzac Day” means the twenty-fifth day of April in each year;

“race meeting” means a meeting of persons for the purpose of holding or conducting horse racing or trotting racing;

“racing club” means any club, company, association or body of persons, whether incorporated or otherwise, formed for the purpose of promoting horse racing or trotting racing;

“sports” means motor car races, motor cycle races, bicycle races, or foot races, or cricket matches, football matches, soccer matches, hockey matches, or baseball matches, or any other game, exercise, pastime or contest of a kind usually held, conducted, carried on, contested or decided on a ground, which are held in any building or on any ground to which persons are admitted on payment of a fee or charge for admission, or are admitted without payment of any such fee or charge but prior to or during the holding of the sports or after their conclusion a donation is sought from the persons attending those sports by or on behalf of the person, club, association or body holding the same; but does not include horse races or trotting races;

“Trust” means the body corporate constituted under this Act as The Anzac Day Trust;

“Trustee” means a person occupying the office of Trustee of the Trust, including the office of chairman.

Race
meetings on
Anzac Day.
Amended by
No. 113 of
1965, s. 8.

4. (1) No license shall be granted under the Racing Restriction Act, 1917, for any race meeting to be held on Anzac Day before the hour of one o'clock in the afternoon, and any license granted contrary to this section shall be void.

(2) It shall be unlawful for any person or racing club to hold or conduct any race meeting on Anzac Day if that race meeting commences before the hour of one o'clock in the afternoon of that day.

(3) Notwithstanding anything in this section, no race meeting shall be held on an Anzac Day which is a Sunday.

(4) If any race meeting is held on Anzac Day in any year in contravention of the provisions of this section, the person or racing club by or on behalf of whom or which the race meeting was held, and each member of the managing body or committee of that racing club, commits an offence and is liable to a penalty not exceeding four hundred dollars.

(5) Any race meeting held on Anzac Day shall be included in, and not be in addition to, the number of race meetings permitted to be held under the provisions of section two, or, as the case may be, section three, of the Racing Restriction Act, 1917.

5. (1) The person or racing club by or on behalf of whom or which a race meeting is held or conducted on Anzac Day shall within one month after that race meeting is held or conducted—

Proceeds of race meetings on Anzac Day to be paid to Trust.

Amended by No. 14 of 1964, s. 3; No. 113 of 1965, s. 8.

(a) furnish to the Trust a return in the prescribed form setting out details of all moneys received and expenditure incurred in relation to the holding or conducting of that race meeting and the return shall be verified by a statutory declaration made by that person or by the secretary or treasurer of that racing club; and

(b) pay to the Trust—

(i) in the case of a race meeting held in the metropolitan area, the whole of the net proceeds derived from that race meeting; or

(ii) in the case of a race meeting held outside the metropolitan area, sixty per centum of the net proceeds derived from that race meeting.

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(2) If the person or racing club by or on behalf of whom or which a race meeting is held on Anzac Day fails to furnish the return required under the provisions of subsection (1) of this section, or to pay to the Trust the net proceeds derived from the race meeting in accordance with that subsection, that person or racing club, and each member of the managing body or committee of that racing club, commits an offence and is liable to a penalty not exceeding four hundred dollars.

(3) For the purposes of this section the term, "metropolitan area" has the same meaning as that term has for the time being in the Racing Restriction Act, 1917.

Sports on
Anzac Day.
Amended by
No. 113 of
1965, s. 8.

6. (1) Notwithstanding anything in any Act or in any regulation or by-law, no sports shall be held on Anzac Day in any year except in compliance with the provisions of this section.

(2) No race, match, game, exercise, pastime, contest or other event at any sports held on Anzac Day shall commence before the hour of one o'clock in the afternoon.

(3) Nothing in this section shall affect the operation of any Act or law relating to Sunday, but otherwise this section shall have effect notwithstanding anything in any Act, regulation or by-law.

(4) If any sports are held on Anzac Day in any year in contravention of this section, the person, club, association or body by or on behalf of whom or which those sports were so held, and each member of the managing body or committee of that club, association or body, commits an offence and is liable to a penalty not exceeding four hundred dollars.

Proceeds
of sports on
Anzac Day
to be paid
to Trust.
Amended by
No. 113 of
1965, s. 8.

7. (1) The person, club, association or body by or on behalf of whom or which any sports are held on Anzac Day shall within one month after the holding of the sports—

- (a) furnish to the Trust a return in the prescribed form setting out details of all moneys received and expenditure incurred in relation to the holding of those sports, and the return shall be verified by a statutory declaration made by that person or by the secretary, treasurer or other responsible official of that club, association or body; and
- (b) pay to the Trust sixty per centum of the net proceeds derived from the holding of those sports.

(2) If the person, club, association or body by or on behalf of whom or which sports are held on Anzac Day fails to furnish the return required under subsection (1) of this section, or to pay to the Trust the net proceeds derived from the holding of those sports in accordance with that subsection, that person, club, association or body, and each member of its managing body or committee, commits an offence and is liable to a penalty not exceeding four hundred dollars, but no such member is liable if it is shown that such failure occurred without his knowledge or approval.

8. The Licensing Act, 1911, is amended, and as so amended may be cited in accordance with the provisions of the Schedule to this Act.

Licensing Act, 1911, amended.

9. The Betting Control Act, 1954, is amended by substituting for the words, "Anzac Day and Sunday" in lines eight and nine of subsection (4) of section thirteen of that Act the passage, "or on any Sunday, or before the hour of one o'clock in the afternoon on Anzac Day".

Betting Control Act, 1954, amended.

10. (1) There shall be established and opened in the Treasury a fund to be called the Anzac Day Trust Fund, which Fund shall, subject to the Treasurer, be administered by the Trust constituted under the provisions of this Act.

Establishment of Anzac Day Trust Fund. Amended by No. 14 of 1964, s. 43; No. 2 of 1970, s. 2.

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(2) There shall be paid into the Treasury to the credit of the Fund—

- (a) all fees paid for occasional licenses authorising the sale or disposal of liquor on Anzac Day granted under the provisions of subsection (2) of section forty-four, or subsection (2a) of section two hundred and five, of the Licensing Act, 1911;
- (b) all moneys paid to the Trust pursuant to the provisions of section five of this Act;
- (c) all moneys paid to the Trust pursuant to the provisions of section seven of this Act; and
- (d) all donations, devises and bequests made to the Trust.

(3) The moneys standing to the credit of the Fund shall be charged with the cost of administering this Act, and subject thereto shall be distributed each year by the Trust, with the approval and consent of the Treasurer, for the purposes of the preservation, alteration and improvement of existing homes and the erection and construction of new homes for aged ex-servicemen and ex-servicewomen and their maintenance in such homes and of the welfare of widows and children of deceased ex-servicemen, and among institutions, organisations and associations the object or one of the objects of which is the financial assistance and relief, or the amelioration of conditions, of persons—

- (a) who were members of the naval, military or air forces of Her Majesty or of the Commonwealth; or
- (b) now resident in the State who were members of any naval, military or air forces of any foreign power allied or associated with Her Majesty or with the Commonwealth,

during any war in which Her Majesty or the Commonwealth was or is engaged or during any period while they were outside Australia and they were, or the body, contingent or detachment of the

naval, military or air forces of which they were members or to which they were attached was, allotted for duty in a prescribed special area, or of the dependants of any such persons.

(4) Nothing in this section shall entitle, or be deemed to entitle, any Trustee to any remuneration, allowance or expenses in respect of the exercise by him of his functions and duties under this Act.

11. (1) For the purposes of this Act a Trust is constituted under the name of "The Anzac Day Trust."

The Anzac Day Trust constituted. Amended by No. 14 of 1964, s. 5.

(2) The Trust shall consist of four Trustees (including the chairman) to be appointed from time to time by the Governor.

(3) Of the four Trustees—

- (a) one shall be a person nominated by the Treasurer as the representative of the Treasury and he shall be chairman;
- (b) one shall be a person nominated in accordance with the provisions of subsection (4) of this section by the Treasurer as the representative of The Returned Sailors', Soldiers' & Airmen's Imperial League of Australia, W.A. Branch, Incorporated;
- (c) one shall be a person nominated in accordance with the provisions of subsection (4) of this section by the Treasurer as the representative of Perth Legacy Incorporated; and
- (d) one shall be a person nominated in accordance with the provisions of subsection (5) of this section by the Treasurer as the representative of those societies, bodies or associations of ex-servicemen or ex-service-women or the dependants of either, which are the holders of licenses under the provisions of the Charitable Collections Act, 1946.

(4) (a) Where the Treasurer intends to nominate a Trustee mentioned in paragraph (b) or in paragraph (c) of subsection (3) of this section, he

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shall before making the nomination give written notice of that intention—

(i) in the case of the Trustee mentioned in that paragraph (b), to the State President of the body referred to in that paragraph;

or

(ii) in the case of the Trustee mentioned in that paragraph (c), to the President of the body referred to in that paragraph.

(b) If within one month of the giving of the notice referred to in this section the State President, or, as the case may be, the President, of the body to whom that notice is given submits to the Treasurer a panel of the names of three persons eligible to hold the office of Trustee as the representative of that body, the Treasurer shall nominate for that office one of the three persons whose names are so submitted.

(c) If at the expiration of the period of one month, or such extension of that period as he thinks fit and is hereby authorised to grant, the Treasurer has not received the panel required to be submitted under this subsection, or has received the panel but none of the persons named is eligible to hold office as a Trustee, the Treasurer shall nominate such person as he thinks fit.

(5) (a) Where the Treasurer intends to nominate a Trustee mentioned in paragraph (d) of subsection (3) of this section, he shall before making the nomination give written notice of that intention to the President of each of the bodies referred to in that paragraph.

(b) If within one month of the giving of the notice referred to in this section, the President of each body to whom that notice is given submits to the Treasurer the name of a person eligible to hold the office of Trustee, the Treasurer shall nominate for the office of Trustee as the representative of the bodies referred to in paragraph (d) of subsection (3) of this section one of the persons whose names are so submitted.

(c) If at the expiration of the period of one month, or such extension of that period as he thinks fit and is hereby authorised to grant, the Treasurer has not received the names required to be submitted under this subsection, or has received the names but none of the persons named is eligible to hold office as a Trustee, the Treasurer shall nominate such person as he thinks fit.

(6) Any three Trustees shall form a quorum.

12. The Trust is a body corporate with perpetual succession and a common seal, and is capable of suing and being sued in its corporate name, and of doing and permitting all acts and things required by this Act to be done by the Trust or which are necessary or convenient to be done by the Trust for the purpose of carrying out its powers and functions under this Act.

Trust to be a body corporate.

13. A person is not eligible for appointment and shall not be appointed to or hold office as a Trustee—

Eligibility of Trustees.

- (a) if he is bankrupt;
- (b) if within six years he has as a bankrupt debtor taken advantage of protection or relief under any law for the protection of bankrupt debtors;
- (c) if through mental or physical infirmity or illness he would, if appointed, be unable satisfactorily to carry out the duties of office;
- (d) if he has been convicted of an indictable offence, or other offence which in the opinion of the Governor is of so serious a nature as to render him unsuitable for appointment.

14. (1) Subject to this Act every Trustee shall hold office for a period of three years from the date of his appointment, unless he dies, resigns or is

Tenure of office of Trustees.

removed from office, in any of which events a successor shall be appointed by the Governor for the unexpired period of the term of office of the Trustee who has died, resigned or been removed from office.

(2) The Governor may at any time accept the resignation of any Trustee and may remove any Trustee from office who becomes bankrupt or commits an indictable offence, or has, in the opinion of the Governor, become unfit or unsuitable to continue as a Trustee because of mental or physical infirmity or illness, or of neglect of duty as a Trustee, or of misbehaviour whether in his capacity as a Trustee or otherwise.

Recovery of
proceeds.
Added by
No. 14 of
1964, s. 6.

14A. Any moneys payable to the Trust pursuant to the provisions of this Act, as well as the costs of proceedings for the recovery of those moneys, may be sued for and recovered by action at the suit of the Trust in a court of competent jurisdiction, and any such action may be taken without prejudicing the liability of any person, racing or other club, association or body to penalty under this Act.

Annual
report.

15. The Trust shall prepare an annual report of its proceedings and operations during the preceding year which report shall be laid by the Treasurer before both Houses of Parliament as soon as practicable in each year.

Authenti-
cation of
documents.

16. Every notice, order, summons or other document requiring authentication by the Trust shall be sufficiently authenticated without the seal of the Trust if signed by the chairman.

Regulations.
Amended by
No. 113 of
1965, s. 8;
No. 2 of
1970, s. 3.

17. (1) The Governor may make any regulations not inconsistent with the provisions of this Act which may be necessary or convenient for carrying this Act into operation, or for facilitating the operation of this Act and of the Trust thereunder.

(1a) Without limiting the generality of subsection (1) of this section the regulations may prescribe that a specified area outside Australia is, for the purposes of this Act, a special area on and after a specified date, or between specified dates,

which date or dates may be before or after the coming into operation of this Act and the regulations may prescribe that the area is, for the purposes of this Act, no longer a special area on and after a specified date.

(2) Such regulations may prescribe a penalty not exceeding one hundred dollars for the breach or omission of any duty imposed by those regulations.

THE SCHEDULE.

S. 9.

LICENSING ACT, 1911.

1. (1) In this Schedule the Licensing Act, 1911-1960, is referred to as the principal Act.

Vol. 14 of the Reprinted Acts. Approved for reprint, 8th June, 1960, and amended by Act No. 17 of 1960.

(2) The principal Act as amended by the Anzac Day Act, 1960, may be cited as the Licensing Act, 1911-1960.

2. Section thirty-five of the principal Act is amended by substituting for the passage, "any Sunday, Anzac Day (the twenty-fifth day of April)" in lines two and three of the last proviso the passage, "Anzac Day (the twenty-fifth day of April), except under the authority of an occasional license granted pursuant to subsection (2) of section forty-four of this Act, or upon any Sunday."

3. Section forty-four of the principal Act is amended—

(a) by adding immediately after the section designation, "44" the subsection designation, "(1)";

(b) by inserting after the word, "license" in line two of the proviso the passage, "except an occasional license granted under subsection (2) of this section,";

(c) by adding the following subsections—

(2) On the application of the holder of a publican's general license, an Australian wine and beer license, an Australian wine license, a wayside-house license, a packet license, or a restaurant license, and on payment by him of the fee payable under section seventy-five of this Act, an occasional license may be granted exempting the licensee from the provisions of this Act relating to the closing on Anzac Day (the twenty-fifth day of April) of the premises the subject of his license—

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- (a) between the hours of one o'clock in the afternoon and ten o'clock in the evening where the license is other than a restaurant license; and
- (b) between the hours of six o'clock in the evening and twelve o'clock midnight where the license is a restaurant license.

(3) Notwithstanding anything in subsection (2) of this section, no occasional license shall be granted in respect of an Anzac Day which is a Sunday.

4. Section forty-four G of the principal Act is amended by adding after the word, "Day" where it occurs in the last line of item (I), and again in the last line of item (II), of subparagraph (ii) of paragraph (a) of subsection (6) the passage, " , but subject nevertheless, so far as concerns Anzac Day, to the provisions of subsection (2) of section forty-four of this Act" in each case.

5. Section seventy-five of the principal Act is amended by substituting for the words, "be One pound" in lines one and two the following passage—

be—

- (a) one pound, if that license is granted under subsection (1) of section forty-four of this Act;
- (b) two pounds, if that license is granted under subsection (2) of that section and the grantee is the holder of a license other than a publican's general license;
- (c) five pounds, if that license is granted under subsection (2) of that section and the grantee is the holder of a publican's general license; and
- (d) two pounds, if that license is granted under section two hundred and five of this Act.

6. Section one hundred and twenty-two of the principal Act is amended by inserting after the passage, "(the 25th day of April)" in lines eight and nine of subsection (1) the passage, " , except under the authority of an occasional license granted pursuant to subsection (2) of section forty-four of this Act".

7. Section one hundred and twenty-four of the principal Act is amended—

- (a) by deleting the passage, "Anzac Day (the 25th day of April)," in line nine; and
- (b) by inserting after the word, "Sunday" in line thirteen the passage, "and, subject to the provisions of subsection (2) of section forty-four of this Act, during the whole of every Anzac Day (the 25th day of April)".

8. Section one hundred and sixty-seven of the principal Act is amended—

- (a) by substituting for the passage, "Anzac Day (the 25th day of April), Christmas Day, or Good Friday" in lines eight and nine of subsection (2) the passage, "Christmas Day, or Good Friday, or at any time on Anzac Day (the 25th day of April) other than during the hours when, under the authority of an occasional license granted under subsection (2) of section forty-four of this Act, those premises are permitted to remain open.";
- (b) by substituting for the passage, "Anzac Day (the 25th day of April), Christmas Day, or Good Friday" in lines six and seven of subsection (3) the passage, "Christmas Day, or Good Friday, or at any time before the hour of one o'clock in the afternoon on any Anzac Day (the 25th day of April) which is not a Sunday".

9. Section two hundred and five of the principal Act is amended—

- (a) by substituting for the word, "No" in line one of subsection (1) the passage, "Subject to the provisions of subsection (2a) of this section, no";
- (b) by adding after subsection (2) the following subsection—

(2a) Upon the application of a registered club, and on payment of the fee payable under section seventy-five of this Act, the Licensing Court may grant an occasional license which shall exempt the club from the provisions of subsection (1) of this section between the hours of one o'clock in the afternoon and eleven o'clock in the evening on Anzac Day (the 25th day of April), but no occasional license under this subsection shall be granted in respect of an Anzac Day which is a Sunday.

