

BETTING CONTROL.

3° Elizabeth II., No. LXIII.

No. 63 of 1954.¹

(Affected by Acts No. 62 of 1954, No. 49 of 1956, No. 77 of 1959,
No. 50 of 1960 and No. 113 of 1965.)

[As amended by Acts:

No. 50 of 1956,² assented to 18th December, 1956;
No. 36 of 1957, assented to 18th November, 1957;
No. 76 of 1959,³ assented to 14th December, 1959;
No. 49 of 1960,⁴ assented to 28th November, 1960;
No. 66 of 1960, assented to 2nd December, 1960;
No. 73 of 1960, assented to 12th December, 1960;
No. 14 of 1961, assented to 20th October, 1961;
No. 28 of 1963, assented to 13th November, 1963;
No. 21 of 1970,⁵ assented to 8th May, 1970;
No. 66 of 1970, assented to 17th November, 1970;
No. 75 of 1970,⁶ assented to 17th November, 1970;

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

AN ACT to Authorise, Regulate and Control, Betting and Bookmaking on Horse Racing; to Regulate the Assessment, Collection, and Allocation of a tax on Money Paid or Promised to Bookmakers or the Totalisator Agency Board as Consideration for Bets, to Repeal certain Acts; to Amend certain Acts; and for Other Purposes.

Long title.
Amended by
No. 49 of
1960, s. 3.

[Assented to 30th December, 1954.]

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 *Betting Control Act, 1954-1970*.

Short title.
Amended
by No. 75 of
1970, s. 1.

¹ Came into operation 1st August, 1955. See *Gazette* 29/7/55, p. 1767.
² "Proclaimed Day" for purposes of s. 14; and "Day fixed by proclamation" for purposes of s. 15 of the Act is the 24th December, 1956. See *Gazette* 21/12/56, p. 2975.
³ Came into operation 21st December, 1959. See *Gazette* 18/12/59, p. 3339.
⁴ Came into operation 31st December, 1960. See *Gazette* 23/12/60, p. 4074.
⁵ Came into operation 1st July, 1970. See *Gazette* 26/6/70, p. 1831.
⁶ Came into operation 1st January, 1971.

Commence-
ment.

2. (1) This Act shall come into operation on a day to be fixed by proclamation.¹

(2) After the passing of this Act and notwithstanding that a day has not been fixed by proclamation as that of the coming into operation of this Act,

(a) the Governor may appoint the Board;

(b) persons may make applications for

(i) licenses under this Act; and

(ii) registration under this Act of premises;

(c) the Board may exercise all or any of the powers conferred upon it by this Act, including the power to accept, consider, and grant or refuse, applications mentioned in paragraph (b) of this subsection;

as validly as if this Act had been proclaimed to come into operation, but licenses granted before that day, and registrations effected and published in accordance with section eleven of this Act before that day, are not effective until that day.

(3) The provisions of subsection (2) of this section are in addition to and not in derogation of those of section eleven or any other provisions of the Interpretation Act, 1918.

Repeal.

3. (1) The Stamp Act Amendment Act (No. 2), 1952, Act No. 48 of 1952, and the Winning Bets Tax Act, 1952, Act No. 49 of 1952, are repealed.

Amendment.

(2) The Stamp Act, 1921-1954,² as affected by this section is amended and may be cited in accordance with Part I. of the Schedule to this Act.

Interpre-
tation.
Amended by
No. 49 of
1960, s. 4;
No. 21 of
1970, s. 48.

4. In this Act unless the context requires otherwise—

“Board” means the Totalisator Agency Board constituted under the Totalisator Agency Board Betting Act, 1960.

¹ Came into operation 1st August, 1955. See *Gazette* 29/7/55, p. 1767.

² Now Stamp Act, 1921-1970.

“betting material” means—

- (a) lists, cards, books, tickets, vouchers, and papers, relating to betting;
- (b) other documents relating to betting whether they are of the same kind as, or a different kind from, those specified in paragraph (a) of this interpretation;
- (c) machines and devices used for facilitating betting; and
- (d) blackboards and other things used for betting whether of the same kind as, or a different kind from, things specified in this interpretation;

“bookmaker” means a person holding a current license;

“commissioner” means the person holding the office of Commissioner of State Taxation under the Public Service Act, 1904;

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

“license” means a license issued by the Board to carry on the business under this Act of a bookmaker;

“licensing year” means the period of twelve months ending the thirty-first day of July in every year;

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

“occupier” used in relation to a place includes a person by whom or on whose behalf, and a company or other corporation which or

Cr. No. 15 of
1942, s. 2 (b).

on behalf of which, the place is actually occupied, or who or which is the lessee or sub-lessee, not being the owner, and an attorney, agent, or manager, who has the control, supervision, or management of the place on behalf of the person, company or corporation;

*Cf. No. 15 of
1942, s. 2 (c).*

“owner” used in relation to a place includes a person who, or company or other corporation which, is, whether at law or in equity, entitled to the place and also includes the attorney, agent or manager having control or supervision of the place for that person, company, or corporation, or who, on his or its behalf, receives the rent or is authorised to issue receipts for the rent;

“place” means a building, erection, structure, house, office, room, tent, vessel, vehicle, premises, land whether enclosed or otherwise or part of any of them, and includes any other place or part of a place whether of the same kind as, or a different kind from, places specified in this interpretation;

“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” means 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, and any other place or part of a place used, or available for use, by the public whether of the same kind as or a different kind from, those specified in this interpretation or the interpretation of the expression, place;

“race” means a race of any kind by horses whether ridden or driven;

“race course” means a race course used for races;

“racing club” means a body which conducts race meetings;

“race meeting” means a meeting at which races are held;

“registered premises” means a building or parcel of land or part of a building or parcel of land approved by the Board to be used for the purpose of betting and registered under this Act as such;

“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 Cf. Crim. Code, s. 211.

(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

(b) securing the paying or giving by some other person of any money or other property on any such event or contingency;

and primitives, derivatives and inflections of the expression, to bet, have correlative meanings;

“vessel” means every description of vessel used in navigation;

“vehicle” means every description of vehicle whether stationary or in motion.

Legislation
of betting
with
bookmakers.
Amended
by No. 49
of 1960, s. 5;
No. 28 of
1963, s. 2.
Cf. s. 11 (4)
(a) and
s. 10 post.

5. (1) Notwithstanding any law to the contrary, persons may, in accordance with this Act, lawfully bet by way of wagering or gaming on races—

- (a) on a race course during the holding at the race course of a race meeting; or
- (b) at or in registered premises,

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 or the registered premises 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) No bet or transaction arising out of or in connection with a bet shall be enforceable at law.

(2a) Subject to subsection (2b) of this section, no bet on a horse in a race shall be made with or accepted by a bookmaker who holds a license to carry on the business of a bookmaker at registered premises, or with his employee, unless—

- (a) it is made and accepted at odds in respect of the horse, as determined after the race is run by the totalisator established on the race course where the race was run; or
- (b) where the bet is made on a horse in a race on which the Board conducts a totalisator pool in accordance with the Totalisator Agency Board Betting Act, 1960, the bet is made and accepted at odds in respect of the horse as determined after the race is run by the Board under that Act.

(2b) (a) If the odds in relation to a bet to which subsection (2a) of this section applies are, as determined in accordance with that subsection, in excess of the prescribed odds for that bet, the bookmaker who has made or accepted the bet is required to pay the bet at the prescribed odds only.

(b) For the purposes of this subsection, "prescribed odds" in relation to a bet means odds of—

- (i) fifty to one for a bet for a win and twelve to one for a bet for a place in respect of a horse in a horse race run on a race course outside the State and on a race course in the Metropolitan Area of the State; and
- (ii) thirty-three to one for a bet for a win and eight to one for a bet for a place in respect of a horse in a horse race run on a race course in the State but outside of the Metropolitan Area of the State.

(3) No person shall be prosecuted or convicted, or is liable to prosecution or conviction, or subject to penal consequences under the provisions of the Criminal Code, 1913, or of the Police Act, 1892, by reason of anything done by him under and in accordance with the provisions of this Act, but subject to this Act, the provisions of that Code and of that Act, relating to common gaming houses and common betting houses, or unlawful betting, are of full force and effect, and as affected by this Act, that Code and that Act are amended, and may be cited, in accordance with the Schedule to this Act.

Exclusion of provisions of Criminal Code and Police Act.

Schedule.

6. [Repealed by No. 49 of 1960, s. 6.]

7. For the purposes of this Act, the Governor may appoint under the Public Service Act, 1904, such persons as officers of the Board as he considers necessary.

Officers of Board. Amended by No. 49 of 1960, s. 7.

8. [Repealed by No. 49 of 1960, s. 8.]

9. The expenses of the administration of this Act are payable out of such money as Parliament appropriates for the purpose.

Expenses of administration of this Act are payable out of money appropriated by Parliament.

10. The Board shall prepare and submit to the Minister, not later than the thirtieth day of September in each calendar year, a report on the

Annual Report.

exercise and performance by the Board of its powers, functions, and duties under this Act during the twelve months ended on the preceding thirty-first day of July. A copy of such report shall be laid before both Houses of Parliament.

Applications for, and discretion of Board to grant, licenses.
Amended by No. 66 of 1960, s. 2.
Currency of licenses.

11. (1) Applications for licenses may be made to the Board, which may grant or refuse an application for a license.

(2) Subject to the provisions of this Act, licenses are current and operative during the licensing year for which they are issued, or for the unexpired portion thereof, as the case may be, and expire on the thirty-first day of July in each year, but no license shall be transferable or pass to the personal representative of a deceased licensee.

(3) When the unexpired portion of the licensing year does not exceed six months, the Commissioner may, if he deems fit, charge for a license issued for that unexpired portion, one-half only of the prescribed fee for the whole licensing year.

Effect of licenses.
Cf. s. 5 (1) (a) ante and s. 10 post.

(4) A bookmaker's license, during the period of its currency, and subject to, and in accordance with, the provisions of this Act and the license, entitles the holder to carry on the business of a bookmaker either—

- (a) in person upon a race course if he holds a permit to do so from the committee or other authority controlling the race course; or
- (b) in person or subject to subsection (8) of this section by his employee at registered premises specified in the license.

Disqualification from obtaining license.

(5) The Board shall not grant a license—

- (a) to a person who holds, or to a person who is employed in any capacity by one who holds, a license for the sale of liquor under the Licensing Act, 1911,¹ except (in the case of a license under this Act entitling the holder to carry on the business of a

¹ Now see Liquor Act, 1970.

bookmaker as mentioned in paragraph (a) of subsection (4) of this section) in the case of a spirit merchant's license¹ or a gallon license¹ which is located in areas of the State other than the South-West Land Division;

- (b) to a person under the age of twenty-one years;
- (c) to a body corporate;
- (d) to an undischarged bankrupt.

(6) A person making application for a license on his own behalf shall state the fact in the application.

(7) (a) A person making application for a license on behalf of another person shall state the fact and such particulars relating to that other person as are prescribed by the regulations or required by the Board.

(b) In this subsection person means an individual person and does not include more persons than one in respect of one license or a body corporate.

(8) A bookmaker shall not be absent from the registered premises in respect of which he holds a license while the premises are open for business on more than twenty-eight days in any one year without written permission of the Board, nor permit the business of bookmaker to be carried out on the premises in the absence of the bookmaker unless by a licensed employee on his behalf.

12. (1) Nothing in this Act authorises 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.

Permits
required to
bet on race
courses, etc.

¹ Now see Second Schedule of Liquor Act, 1970.

(2) 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 bookmakers holding current and operative licenses.

Cf. s. 5 (1)
(a) and s. 11
(4) (a) ante.

(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 during the holding of a race meeting at the race course.

Registration
of premises.
Amended
by No. 73 of
1960, s. 3;
No. 113 of
1965, s. 3.

13. (1) The Board may, in accordance with the regulations register such number of suitable premises as the Board considers is commensurate with the reasonable requirements of the public and the general interest of the community, as premises in which betting may be carried on by bookmakers in accordance with this Act and their licenses.

(2) (a) In exercise, but without prejudicing the generality, of the power conferred by this section the Board—

- (i) may register premises in which a particular bookmaker may so carry on business;
- (ii) may register premises in which more bookmakers than one may so carry on business.

(b) Where premises are registered as premises in which a particular bookmaker may so carry on business, it is by virtue of this paragraph a condition of the registration and of his license, whether it is or is not expressly mentioned in the registration or license, that the bookmaker shall not directly or indirectly carry on business as a bookmaker elsewhere in the State than

- (i) at or in those premises; or
- (ii) at or in premises registered as those in which more bookmakers than one may so carry on business.

(c) A bookmaker who is convicted of an offence against the provisions of paragraph (b) of this subsection is liable to a fine not exceeding two hundred dollars, or imprisonment for six months, and the Board shall in any case permanently suspend the license of the bookmaker so convicted and shall permanently disqualify him from obtaining a license under this Act.

(d) The power to register premises in which more bookmakers than one may so carry on business, includes power to register portion of club premises if the portion is specially set apart to the satisfaction of the Board for the purpose of betting in accordance with this Act and the terms and conditions of the registration.

(e) Where portion of club premises is so registered, betting, or permitting betting, in accordance with this Act, at or in the portion so registered does not constitute an offence under this or any other Act.

(3) The registration of premises under this Act is not effective until the Board has published a notice of the registration in the *Gazette*.

(4) Upon and after the publication of the notice of the registration of the premises, a licensed bookmaker may lawfully carry on the business of bookmaking in the premises in accordance with this Act and the terms and conditions of the bookmaker's license so long as the registration remains in force, during such hours as are specified in the registration, but not on Good Friday, Christmas Day, or on any Sunday, or before the hour of one o'clock in the afternoon on Anzac Day.

(5) Members of the Board and the Commissioner, and persons authorised by the Board or the Commissioner, have at all times access to and authority to inspect race courses, and registered

Board and Commissioner to have access to race courses and registered premises.

the bet, or whether the bets are negotiated by the bookmaker as agent for another person but does not include any money promised or paid by the bookmaker as the consideration for a bet made by him on his own behalf in the capacity of a backer but not in the capacity of bookmaker:

Provided however, that the Commissioner shall have an absolute discretion to decide what is and what is not a bet made by a bookmaker on his own behalf in the capacity of a backer but not in the capacity of bookmaker;

“proclaimed day” means a day to be fixed by proclamation for the purposes of this section;

“tax” means bookmakers’ betting tax imposed by the taxing Act;

“taxing Act” means the *Bookmakers Betting Tax Act, 1954*. Cf. No. 30 of 1918, s. 14.

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

- (a) make true and full returns of his *off-course* turnover or *on-course* turnover;
- (b) pay tax on the whole of that turnover, whether *off-course* or *on-course*, to but excluding the proclaimed day, at the rate imposed by paragraph (a) of section two of the taxing Act; 11% on all turnover to proclaimed day.
- (c) pay tax on so much of his *on-course* turnover for the period commencing on the proclaimed day and ending on the thirty-first day of July, one thousand nine hundred and fifty-seven, and for each year commencing on the first day of August 2% on first \$100,000 of on-course turnover after proclaimed day.

¹ Proclaimed day, 24th December, 1956. See *Gazette* 21st December, 1956, p. 2975.

premises, and a person refusing to admit or otherwise hindering, delaying, or obstructing a member of the Board or a person so authorised, commits an offence.

Penalty: One hundred dollars.

(6) If the Board is satisfied that any of the provisions of this Act relating to registered premises or a term or condition of registration of premises has not been observed, the Board may, as an administrative act, cancel the registration of the premises by notice in the *Gazette*, and upon the day of the publication, the registration ceases to be effective.

Bookmakers' liability to pay bookmakers betting tax. Substituted by No. 50 of 1956, s. 2. Amended by No. 76 of 1959, s. 3; No. 113 of 1965, s. 8.

14. (1) In this section—

“off-course turnover” means the amounts of money paid or promised as the consideration for bets which are made by a bookmaker or his employee on his behalf, and which are referred to in section sixteen of this Act, whether the bets are made by or on behalf of the bookmaker as a party to the bet, or whether the bets are negotiated by or on behalf of the bookmaker as agent for any other person, but does not include any money promised or paid by the bookmaker as the consideration for a bet made by him on his own behalf in the capacity of a backer but not in the capacity of bookmaker:

Provided, however, that the Commissioner shall have an absolute discretion to decide what is and what is not a bet made by a bookmaker on his own behalf in the capacity of a backer but not in the capacity of bookmaker;

“on-course turnover” means the amounts of money paid or promised as the consideration for bets which are made by a bookmaker, and which are referred to in section fifteen of this Act, whether the bets are made by the bookmaker as a party to

thereafter, as does not exceed one hundred thousand dollars, at the rate imposed by paragraph (b) of section two of the taxing Act;

2½% on
on-course
turnover
exceeding
\$100,000 after
proclaimed
day.

- (d) pay tax on so much of his on-course turnover for the period commencing on the proclaimed day and ending on the thirty-first day of July, one thousand nine hundred and fifty-seven, and for each year commencing on the first day of August thereafter, as exceeds one hundred thousand dollars at the rate imposed by paragraph (c) of section two of the taxing Act;
- (e) pay tax on all of his *off-course* turnover for the period commencing on the proclaimed day and ending on the thirty-first day of July, one thousand nine hundred and fifty-seven, and for each year commencing on the first day of August thereafter until the thirty-first day of July, one thousand nine hundred and fifty-nine, and for the period commencing on the first day of August, one thousand nine hundred and fifty-nine and ending on the day¹ prior to the coming into operation of the Betting Control Act Amendment Act, 1959, at the rate imposed by paragraph (d) of section two of the taxing Act;
- (f) pay tax on all of his off-course turnover for the period commencing on the day of the coming into operation of the Betting Control Act Amendment Act, 1959, and ending on the thirty-first day of July, one thousand nine hundred and sixty, and for each year commencing on the first day of August thereafter—
- (i) on so much of that turnover as does not exceed fifty thousand dollars at the rate imposed by subparagraph (i) of paragraph (e) of section two of the taxing Act;

¹ i.e. 20th December, 1959.

- (ii) on so much of that turnover as exceeds fifty thousand dollars but does not exceed one hundred thousand dollars at the rate imposed by subparagraph (ii) of paragraph (e) of section two of the taxing Act;
- (iii) on so much of that turnover as exceeds one hundred thousand dollars but does not exceed one hundred and fifty thousand dollars at the rate imposed by subparagraph (iii) of paragraph (e) of section two of the taxing Act;
- (iv) on so much of that turnover as exceeds one hundred and fifty thousand dollars but does not exceed two hundred thousand dollars at the rate imposed by subparagraph (iv) of paragraph (e) of section two of the taxing Act;
- (v) on so much of that turnover as exceeds two hundred thousand dollars but does not exceed two hundred and fifty thousand dollars at the rate imposed by sub-paragraph (v) of paragraph (e) of section two of the taxing Act;
- (vi) on so much of that turnover as exceeds two hundred and fifty thousand dollars but does not exceed three hundred thousand dollars at the rate imposed by subparagraph (vi) of paragraph (e) of section two of the taxing Act;
- (vii) on so much of that turnover as exceeds three hundred thousand dollars at the rate imposed by subparagraph (vii) of paragraph (e) of section two of the taxing Act.

Cf. s. 4 ante,
"to bet".
[No. 50 of
1956, s. 2.]

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

Payment of
tax by
bookmakers
on bets made
at race
meetings.
Amended by
No. 50 of
1956, s. 3,
No. 75 of
1970, s. 3.

15. (1) Where a bookmaker with permission of a racing club conducting a race meeting bets in person as a bookmaker at the meeting, the provisions of this section apply.

(2) The bookmaker shall cause to be recorded in duplicate in the prescribed form signed by the bookmaker and in such manner that the original and duplicate are clearly legible and the duplicate is an exact copy of the original, particulars of his bets are made at the meeting in respect of—

- (a) each race held or to be held at the meeting; and
- (b) each race held or to be held elsewhere.

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

- (a) each race held at the meeting, at the conclusion of the race; and
- (b) each race held or to be held elsewhere than at the meeting, at the conclusion of the meeting.

(4) The bookmaker shall cause to be delivered to the racing club within seven days of the race meeting,

- (a) a return in the prescribed form 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 him in the capacity of book-

maker, and showing the sum payable on that amount as bookmakers' betting tax; and

- (b) payment of that sum of bookmakers' betting tax.

(5) The racing club receiving that sum of bookmakers' betting tax from the bookmaker—

- (a) shall, prior to a day¹ to be fixed by proclamation for the purposes of this section, retain twenty per centum of that sum, and after the thirty-first day of December, nineteen hundred and seventy shall retain fifty per centum of that sum and apply one-half of the amount retained towards increasing stakes, and apply the remaining half to such purposes as the club thinks fit;

- (b) shall within such time of receiving that sum from the bookmaker, as the Commissioner appoints and is hereby authorised to appoint from time to time, either generally or for a particular case, remit the balance of that sum to the Commissioner, and supply to the Commissioner such particulars as the Commissioner requisitions and is hereby authorised to requisition.

(6) If the racing club does not remit that balance to the Commissioner by the appointed time, the Commissioner 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 Commissioner consents to destruction of the returns and duplicates.

¹ 24th December, 1956. See *Gazette*, 21st December, 1956, p. 2975.

Payment
of tax by
bookmakers
on bets made
at registered
premises.
Amended by
No. 50 of
1956, s. 4;
No. 49 of
1960, s. 9.

16. (1) When in the capacity of bookmaker, a bookmaker or his employee on his behalf makes bets at registered premises on races wherever held or to be held, the provisions of this section apply.

(2) The bookmaker shall cause to be recorded in duplicate in prescribed form signed by him and in such manner that the original and duplicate are clearly legible and the duplicate is an exact copy of the original, particulars of bets made by the bookmaker himself or by his employee on his behalf 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; and
- (c) races of horses whether ridden or driven, held or to be held elsewhere than in this State.

(3) The bookmaker shall cause to be delivered to the Commissioner at such times as the Commissioner 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) of this section made during such period as the Commissioner determines and is hereby authorised to determine from time to time, either generally or for a particular case;
- (b) a return in the prescribed form signed by the 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 tax; and
- (c) payment for the use of Her Majesty, of that sum of betting tax.

(3a) [Repealed by No. 49 of 1960, s. 9.]

(3b) [Repealed by No. 49 of 1960, s. 9.]

(4) [Repealed by No. 49 of 1960, s. 9.]

16A. [Added by No. 76 of 1959, s. 4. Repealed by No. 75 of 1970, s. 4.]

16B. [Added by No. 76 of 1959, s. 4. Repealed by No. 49 of 1960, s. 11.]

16C. [Added by No. 76 of 1959, s. 4. Repealed by No. 49 of 1960, s. 11.]

17. Where a bookmaker or his employee on his behalf has made a bet on a race and has included the bet in a record or return as required under this Act, if it appears to the Commissioner that because of a decision of a competent authority controlling the race or betting in respect of the race, the bookmaker is not entitled to receive or retain the whole or part of the consideration for the bet, the Commissioner shall exempt the bookmaker from payment of bookmakers' betting tax on the whole or part as the case may be, of that consideration, and if the bookmaker has already paid the tax, the Commissioner shall refund it to the bookmaker on demand.

Effect on liability for payment of tax where racing authority declares bets off, etc.

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

Omissions of bets from records or returns does not affect liability for tax or penalty.

19. Where a bookmaker does not pay bookmakers' betting tax payable under this Act by the bookmaker, whether payable to the Commissioner or to a racing club, the Commissioner may, without prejudicing

Commissioner may sue bookmakers for unpaid tax.

the liability of the bookmaker to penalty under this Act, sue the bookmaker for the amount of the tax unpaid in a court of competent jurisdiction.

Powers of
inspection.

20.(1) Officers authorised in writing by the Commissioner to do so, whether generally or for a particular case, may on producing the written authorisation,

- (a) require a bookmaker or his employee, or a member or executive officer of the committee or other body controlling a racing club or race meeting to produce for inspection anything in his control or possession relating to betting, or to answer questions relating to betting; and
- (b) make and retain a copy of the whole or part of any of those things.

(2) Officers of a racing club authorised in writing as the circumstances may require either by the secretary of the Western Australian Turf Club or the secretary of the Western Australian Trotting Association and with the consent of the secretary of the Board to do so, whether generally or for a particular case may, on producing the written authorisation—

- (a) require a bookmaker to produce for inspection anything in his control or possession relating to betting or to answer questions relating to betting, and
- (b) in either case make and retain a copy of the whole or part of any of those things.

(3) A person, who on production by an officer of the written authorisation,

- (a) does not, when required, produce those things for inspection by the officer;

- (b) does not, when required, answer to the best of his knowledge, information, and belief, a question relating to betting put to him by the officer; or
- (c) hinders or obstructs the officer in carrying out his duties;

commits an offence.

21. No bookmaker, and no employee of a bookmaker shall knowingly—

- (a) bet with, or pay money or deliver property relating to a bet to, a person apparently under the age of twenty-one years;
- (b) bet with, or pay money or deliver property relating to a bet to, a person apparently under the influence of intoxicating liquor;
- (c) permit a person under the age of twenty-one years, or a person apparently under the influence of intoxicating liquor, to enter registered premises while the bookmaker or his employee has the premises open for betting, except in the case of a person under the age of twenty-one years entering the premises for the purpose of delivery of mail or goods, or effecting repairs or otherwise carrying out his duties but this exception does not authorise employment contrary to the provisions of paragraph (g) of this section;
- (d) have open registered premises at a time other than such as is prescribed by or under this Act;
- (e) advertise his business of betting except as prescribed by or under this Act;
- (f) refuse or prevent entry to premises of which he is the owner or occupier to or by a member of the Board, a person authorised

Prohibition of betting with minors, intoxicated persons, etc.
Amended by No. 113 of 1965, s. 8; No. 66 of 1970, s. 2.

to enter them by the Board, the Commissioner, a person authorised to enter them by the Commissioner, or a member of the Police Force of the State;

- (g) employ in the bookmakers' business of bookmaking a person who has not attained the age of eighteen years and has not been authorised by the Board to be so employed;
- (h) use or permit registered premises owned or occupied by him to be used for any business other than the business of bookmaking carried on in accordance with the provisions of this Act;
- (i) play or permit games of any kind to be played on the registered premises owned or occupied by him;
- (j) use or permit the use of musical instruments on registered premises owned or occupied by him; or
- (k) use or permit the use on registered premises owned or occupied by him, of an appliance capable of being used for receiving broadcast programmes, or for reproducing or increasing the volume of sound, unless the volume of sound emitted by the appliance is so controlled that it does not constitute an annoyance to persons outside the premises.

Penalty: For a first offence, fifty dollars; for a subsequent offence, two hundred dollars or imprisonment not exceeding six months.

Cf. No. 30 of 1913, s. 4. "This Act" includes regs.

Offences by minors. Amended by No. 113 of 1965, s. 8.

22. No person under the age of twenty-one years shall—

- (a) enter or remain on registered premises, except for the purpose of delivery of mail or goods, or effecting repairs, or otherwise

carrying out his duties, but this exception does not authorise employment contrary to the provisions of paragraph (g) of section twenty-one of this Act;

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

Penalty: For a first offence, ten dollars; for a subsequent offence, fifty dollars.

23. (1) No person shall make a bet at or in a place, or at or in a public place, either personally or by means of an agent, or by post, telegraph, telephone or other manner, whether of the same kind as or a different kind from any manner specified in this paragraph,

Prohibition of betting on races unless in accordance with this Act. Amended by No. 49 of 1960, s. 12; No. 113 of 1965, s. 8; No. 66 of 1970, s. 3.

- (a) unless the place is registered under this Act as registered premises, or is a race course where a race meeting or a trotting meeting is being held under licence issued under the Racing Restriction Act, 1917; or
- (b) unless the bet is made in accordance with the provisions of this Act or the Totalisator Agency Board Betting Act, 1960.

Cf. No. 11 of 1917 as amended.

Penalty: For a first offence fifty dollars; for a subsequent offence, two hundred dollars.

(2) No person shall knowingly—

- (a) loiter in front of registered premises;
- (b) take a person under the age of twenty-one years into registered premises unless for a purpose referred to in the exception to paragraph (c) of section twenty-one of this Act;

- (c) take intoxicating liquor or any noxious substance into registered premises or
- (d) place a bet for a person under the age of twenty-one years, or for a person prohibited from entering registered premises.

Penalty: For a first offence, ten dollars; for a subsequent offence, fifty dollars.

Bookmakers must accept only money as consideration for bets. Amended by No. 113 of 1965, s. 8.

24. No bookmaker, and no person employed by a bookmaker, shall receive or agree or promise to receive, as the consideration for a bet, delivery, or an agreement or promise to deliver, property other than money.

Penalty; For a first offence, ten dollars; for a subsequent offence, fifty dollars.

Bookmakers may be ordered not to bet with excessive bettor. Amended by No. 113 of 1965, s. 8.

25. (1) Upon proof being given to the satisfaction of any two Justices of the Peace that any person by excessive betting is likely to impoverish himself to such a degree as to expose himself or his family to want, such justices may order that no bookmaker shall bet with such person for not exceeding the space of one year.

(2) Any two Justices of the Peace may in like manner renew such order from time to time as to all such persons as have not in their opinion reformed.

(3) No bookmaker after notice of such prohibition shall bet with the person named therein.

Penalty: Fifty dollars.

(4) No person so prohibited as aforesaid shall loiter about or enter any registered premises or race course for the purpose of betting.

Penalty: Ten dollars.

(5) An order made under this section may be revoked by any two Justices of the Peace.

(6) All proceedings under subsection (1) of this section shall be heard in camera.

26. Whenever any Justices of the Peace have in the execution of the foregoing powers prohibited any person from betting no person having knowledge of such prohibition shall assist such prohibited person in laying, procuring or obtaining a bet with any bookmaker.

No person to knowingly assist prohibited person to bet. Amended by No. 113 of 1965, s. 8.

Penalty: Ten dollars.

27. No person being the owner or occupier of a place shall open, use, or permit the use of the place for betting by any means whether by persons present or their agents, or by post, telegraph, telephone or other manner, whether of the same kind as or a different kind from any manner specified in this section,

Penalty on owner or occupier of premises used for unlawful betting. Amended by No. 49 of 1960, s. 13; No. 113 of 1965, s. 8.

- (a) unless the place is registered as registered premises;
- (b) unless the place, not being registered as registered premises, is on a race course and then only where a race meeting or trotting meeting is being conducted under license issued under the Racing Restriction Act, 1917; or
- (c) unless in either of those cases the place is opened and used in accordance with the provisions of this Act; or
- (d) unless the betting is done with or through the Board in accordance with the provisions of the Totalisator Agency Board Betting Act, 1960.

Cf. No. 11 of 1917, as amended.

Penalty: For a first offence, two hundred dollars or imprisonment for three months; for a second offence, four hundred dollars or imprisonment for

six months; for a third or subsequent offence, imprisonment for not less than six months and not more than twelve months without the option of a pecuniary penalty.

Forfeiture
of betting
material and
money in
certain cases.

28. (1) A Court recording a conviction of a charge of an offence against this Act, shall 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.

(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.

Search
warrant.
Added by
No. 14 of
1961, s. 2.

28A. (1) If it appears to a justice on complaint made on oath before him 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 he may give to any member of the Police Force a warrant in the form of the Second Schedule to this Act.

Cf. s. 25
No 30 of
1918.

(2) A warrant so given authorises the member of the police force therein named, 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 and bring before a stipendiary magistrate or two justices all persons found therein or thereupon;
- (e) to seize all betting material and money found therein or thereupon or upon the persons referred to in paragraph (c) of this subsection 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 it is dealt with in accordance with the provisions of section twenty-eight of this Act.

(3) In this section "unlawful betting" means any contravention of or failure to observe any provision of section twenty-three or twenty-seven of this Act.

"Unlawful betting".

(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.

Search of female persons.

28B. If, on the hearing of any complaint for an offence against section twenty-three or twenty-seven of this Act, the Court is of opinion that any betting material or money that has to its satisfaction been proved to have been found in any place or public place wherein it was suspected that unlawful betting was carried on and entered under a warrant given under section twenty-eight A of this Act 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 the purposes and provisions of the first mentioned sections or either of them, such finding shall be deemed *prima facie* evidence of the commission by the accused person of the offence charged against him in the complaint.

Betting material *prima facie* evidence of offence.
Added by No. 14 of 1961, s. 2.

Minimum penalties.

29. Where by or under this Act a penalty is prescribed for an offence, but no minimum penalty is prescribed for the offence, the minimum penalty is one-fifth of that prescribed and is irreducible in mitigation, notwithstanding the provisions of section one hundred and sixty-six of the Justices Act, 1902, or those of sections nineteen and six hundred and sixty-nine of the Criminal Code, 1913, or another Act.

General penalty.
Amended by
No. 113 of
1965, s. 8.

30. A person who omits to do anything directed to be done or does or attempts to do anything forbidden to be done by or under this Act commits an offence against this Act and is liable to the penalty expressly provided for the offence, but if no penalty is expressly provided for the offence, he is liable,

- (a) if the offence is a continuing offence, to a penalty of a sum not exceeding two hundred dollars, and in addition to a penalty of a sum not exceeding two dollars for each day the offence continues; or
- (b) if the offence is not a continuing offence, to a penalty not exceeding two hundred dollars.

Bookmaker liable for offences of agent.

31. (1) Where an employee of a bookmaker by act or omission related to the business of the bookmaker as such commits an offence against this Act, the bookmaker and the employee are severally liable in respect of the offence.

(2) That there is no proof —

- (a) that the bookmaker had knowledge of, or relating to, the act or omission of the employee; or
- (b) that it was the intention of the bookmaker that the employee should do the act or make the omission,

is not a defence to the bookmaker.

31A. (1) A member of the Police Force who, and a person who, at the request of such a member, makes a bet is deemed not to be an accomplice and is not guilty of an offence where a complaint arising out of the making of that bet is made against another person; and the evidence of the member of the Police Force or the person who made the bet at his request is deemed, on the hearing of the complaint, not to be the evidence of an accomplice.

Certain persons not accomplices and evidence of accomplices. Added by No. 66 of 1970, s. 4.

(2) In any proceedings against a person for an offence against this Act, an act, admission or statement of an employee or agent of that person is admissible as evidence, whether it is done, made or given in the presence of that person or not.

32. Where there is a question or dispute as to whether a bet has been made or as to the amount payable in respect of a bet, the Board may, as an administrative act, decide the question or dispute, and the decision of the Board is final.

Settlement of disputes relating to bets.

33. The Governor may make regulations for giving effect to the operation of this Act, and without affecting the generality of the foregoing, may by the regulations—

Regulations. Amended by No. 113 of 1965, s. 8.

- (a) provide for the payment of remuneration and allowances to the chairman and other members of the Board and their respective deputies; and
- (b) provide for—
 - (i) licensing of bookmakers;
 - (ii) licensing of bookmakers' employees;
 - (iii) classification of licenses;
 - (iv) terms and conditions upon which license or respective classes of licenses may be obtained and which shall be observed by the holders of licenses;

- (v) payments to the Commissioner of, and amounts payable as, fees in respect of licenses and applications for licenses or respective classes of licenses, and for different amounts to be payable in respect of different classes of licenses;
- (vi) variation, suspension, and cancellation of licenses, and the grounds upon which licenses 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 and all matters relevant to those accounts, records, and particulars;
- (viii) prohibiting or restricting of advertising by bookmakers and employees;
- (ix) the conduct of bookmakers and their employees;
- (x) regulation and control of betting by and with bookmakers, including without limiting the generality of this power, the determination of questions and disputes as to whether a bet has been made, or as to the amount payable in respect of a bet;
- (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 licenses;
- (xii) registration of premises upon which licensed bookmakers personally or by their employees may bet;
- (xiii) classification of registered premises;

- (xiv) terms, conditions, and duration of the registration of registered premises, or respective classes of registered premises;
- (xv) suspension and cancellation of the registration of registered premises, and the transfer of registration from the registered premises to other premises;
- (xvi) payment to the Commissioner of, and amounts payable as, fees in respect of registration and applications for registration, or transfer of registration, of registered premises, or respective classes of registered premises, and for different amounts in respect of different classes of registered premises;
- (xvii) the general administration of this Act; and
- (xviii) imposing as the penalty for breach of a regulation so made, or the breach of a term or condition of a license issued or registration of premises effected under this Act, where the breach is a continuing breach, a sum not exceeding two hundred dollars and in addition a sum not exceeding two dollars for each day the breach continues; or where the breach is other than a continuing breach, a sum not exceeding two hundred dollars.

34. Where and to the extent that there is inconsistency between—

Regulations
under this
Act.

- (a) the provisions of regulations having effect under this Act; and

- (b) the provisions of by-laws having effect under the Western Australian Turf Club Act, 1892, or under the Western Australian Trotting Association Act, 1946, or by-laws, rules, or regulations, made by a racing club under the Associations Incorporation Act, 1895, or any other Act;

the provisions mentioned in paragraph (a) of this section prevail.

Amended by
No. 36 of
1957, s. 2.
Substituted
by No. 49 of
1960, s. 14.

35. (1) The provisions of this Act other than sections fourteen, so far as it relates to on course turnover, fifteen, sixteen A, twenty-five and this section do not apply to any part of the State that is a proclaimed totalisator agency region under the Totalisator Agency Board Betting Act, 1960, but in relation to a person who is the holder of a license that entitles him to carry on the business of a bookmaker in person upon a race course, if he holds a permit to do so from the committee or other authority controlling the race course, the provisions of this Act continue to apply to and in respect of that person, whether or not the race course is or is not within a proclaimed totalisator agency region.

(2) The provisions of section twenty-five of this Act apply in a proclaimed totalisator agency region as though the Board were a bookmaker within the meaning of this Act.

SCHEDULE.

PART I.

Stamp Act, 1922.

s. 3 (2).

Short title
and citation.

1. (1) In this part of this Schedule the Stamp Act, 1921-1954,

Reprinted
Acts, Vol. 5,
1952.
Approved
for reprint
3rd April,
1950.

Act No. 10 of 1922 as reprinted with amendments to and including Act No. 11 of 1950 incorporated pursuant to the provisions of the Amendments Incorporation Act, 1938, and as further amended by Acts No. 48 of 1952 and 5 of 1954,

is referred to as the principal Act.

(2) The principal Act as amended by this Act may be cited as the Stamp Act, 1921-1954.

2. Section one hundred and five of the principal Act is amended by deleting the words, "and issue the same so cancelled to the backer." S. 105 am.

3. The Second Schedule to the principal Act is amended by adding after paragraph (b) of the item, "BETTING TICKET" the following paragraph:— Second Sched. am.

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(c) Elsewhere than within the Grand stand enclosure of any metropolitan racecourse or than within the grounds of a racecourse 0.00 $\frac{5}{8}$

PART II.

Criminal Code.

S. 5 (3).

1. In this Part of this Schedule "Code" means The Criminal Code as contained in the Schedule to the Criminal Code Act, 1913, Act No. 28 of 1913 and as amended by Acts Nos. 32 of 1918, 51 of 1932, 15 of 1942, 40 of 1945, 27 of 1952, 55 of 1953 and 20 of 1954. The Criminal Code.

2. Section two hundred and eleven of the Code is amended by adding after the figures, "1911" at the end of subsection (2), the following passage, "The Totalisator Act, 1883, the Lotteries Control Act, 1954, and to the Betting Control Act, 1954." S. 211 am.

PART III.

Police Act, 1892.

S. 5 (3).

1. (1) In this Part of this Schedule the Police Act, 1892-1954, Short title and citation.

Act Victoriae No. 27, 1892, as reprinted with amendments to and including Act No. 15 of 1952 incorporated pursuant to the Amendments Incorporation Act, 1938, and as further amended by Acts Nos. 6 and 25 of 1954, Approved for reprint 23rd March, 1953.

is referred to as the principal Act.

(2) The principal Act as amended by this Act may be cited as the Police Act, 1892-1954.

S. 83A added.

2. The principal Act is amended by adding the following section:—

This Act is subject to certain Acts. Cf. ss. 84-94. Cf. Crim. Code s. 311 (2).

83A. The provisions of this Act are subject to The Totalisator Act, 1883, the Totalisator Regulation Act, 1911, the Lotteries Control Act, 1954, and the Betting Control Act, 1954.

Added by No. 14 of 1961, s. 3.

SECOND SCHEDULE

FORM OF WARRANT.

To wit } To

WHEREAS it appears to me, a Justice of the Peace by the complaint on oath of (A. B.) of (occupation) in the State that there is reason to suspect that unlawful betting within the meaning of section twenty-eight A of the Betting Control Act, 1954, as amended, is being or is about to be carried on in or upon a certain place or public place, to wit, . This is therefore to authorise and request you with such assistance as may be necessary, to enter into and upon and search such place or public place at any time during the day or night and there to open and break open if necessary and search all things found therein or thereupon and search all persons found therein or thereupon subject to subsection (4) of the said section twenty-eight A and if necessary to use force in making such entry, whether by breaking open doors or otherwise and to arrest and bring before a Stipendiary Magistrate or two Justices of the Peace all such persons as may be found therein or thereupon and seize all money and betting material as defined in the said Act found upon such persons or in or upon such place, as may reasonably be supposed to have been used or designed for use in connection with or in relation to such unlawful betting and to detain any such betting material and money so found to be dealt with according to law: And for so doing this shall be your Warrant.

Given under my hand at in Western

Australia this day of

19 .