



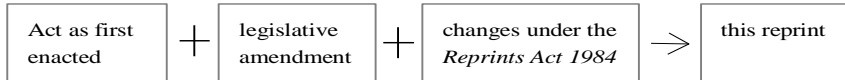
Western Australia

Betting Control Act 1954

Reprinted as at 12 April 2002

Guide for using this reprint

What the reprint includes



Endnotes, Compilation table, and Table of provisions that have not come into operation

1. Details about the original Act and legislation that has amended its text are shown in the Compilation table in endnote 1, at the back of the reprint. The table also shows any previous reprint.
2. Validation, transitional, savings, or other provisions identified in the Compilation table may be important. The table may refer to another endnote setting out the text of these provisions in full.
3. A table of provisions that have not come into operation, to be found in endnote 1a if it is needed, lists any provisions of the Act being reprinted that have not come into operation and any amendments that have not come into operation. The full text is set out in another endnote that is referred to in the table.

Notes amongst text (italicised and within square brackets)

1. If the reprint includes a section that was inserted, or has been amended, since the Act being reprinted was passed, editorial notes at the foot of the section give some history of how the section came to be as it is. If the section replaced an earlier section, no history of the earlier section is given (the full history of the Act is in the Compilation table).
Notes of this kind may also be at the foot of Schedules or headings.
2. The other kind of editorial note shows something has been —
 - removed (because it was repealed or deleted from the law); or
 - omitted under the *Reprints Act 1984* s. 7(4) (because, although still technically part of the text, it no longer has any effect).

The text of anything removed or omitted can be found in an earlier reprint (if there is one) or one of the written laws identified in the Compilation table.

Western Australia

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Western Australia

Reprinted under the
Reprints Act 1984 as
at 12 April 2002

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 or the Totalisator Agency Board as consideration for bets; to authorise, regulate and control the use of totalisators and betting with, or through, the Totalisator Agency Board; to repeal certain Acts; to amend certain Acts; 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.]

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 proclamation ¹.

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

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

4. Interpretation

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

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

“Board” means the Betting Control Board established under this Act;

“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 employee or agent of another person), and who holds a current bookmaker’s licence, but does not include any officer, agent or employee of the TAB when acting for and on behalf of the TAB;

“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”**;

“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;

- “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 *Totalisator Agency Board Betting Act 1960*;
- “licence”** means a licence issued under this Act;
- “licensed employee”** means the holder of a bookmaker’s employee licence issued under section 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 area”** has the meaning given to that term in the *Town Planning and Development Act 1928*;
- “money”** includes bank notes, bank drafts, cheques and any other orders, warrants, authorities, or requests, for the payment of money;
- “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;

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

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

“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;

“the Fund” means the Western Australian Betting Control Board Fund established under section 9;

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

“ticket” means a betting ticket or a totalisator ticket;

“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 *Totalisator Agency Board Betting Act 1960*;

“**totalisator agency**” means any totalisator agency established by the TAB, and includes any premises on which bets on a race or sporting event may be made on a totalisator through or with the TAB.

- (1a) The Board 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;
 - (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.

[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.]

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 Board in the prescribed form 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 Board with such additional information as the Board directs.
- (4) The Board 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 Board thinks fit.

- (5) The Board 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 Board may, whether or not a person is convicted of an offence under subsection (6), cancel or suspend a permit if the Board 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).]

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 Board under this section.
- (2) The Board may approve bookmaking on or in relation to —
(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.

s. 5

- (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 Board 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.]

5. Legalization 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, except on Anzac Day during the period ending at 12 noon; 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 Board 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 Board 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 Board 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 Commission Act 1987*, by reason of anything done pursuant to this Act but, subject to this Act, the 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).]

6. Betting Control Board

- (1) On and after the date fixed for the coming into operation of section 32 of the *Acts Amendment (Racing and Betting Legislation) Act 1995*¹ there shall be a Betting Control Board established in accordance with the succeeding provisions of this Act in place of the Board existing immediately prior to that date, which —
- (a) shall be a body corporate with perpetual succession and a common seal; and
 - (b) may sue and be sued in its corporate name.
- (2) The governing body of the Board shall consist of —
- (a) 2 ex officio members, being —
 - (i) the chief executive officer of the department of the Public Service of the State principally assisting the Minister in the administration of this Act; and
 - (ii) the chairperson of the governing body of the TAB, or a member of that body nominated by its chairperson and approved by the Minister;

and of 5 members appointed by the Minister, of whom —

- (b) one shall be a person who is not a member of any organization referred to in paragraphs (c) to (f);
- (c) one shall be a person nominated for appointment by The Western Australian Turf Club;
- (d) one shall be a person nominated for appointment by the Western Australian Trotting Association;
- (e) one shall be a person nominated for appointment by the Western Australian Greyhound Racing Authority; and
- (f) one shall be a person nominated for appointment by the W.A. Bookmakers' Association Inc.,

being persons selected by the Minister as people who have relevant legislative or analytical skills or who have knowledge

of, and experience or expertise in, community gambling issues, betting or the racing industry.

- (2a) The Minister may appoint the chief executive officer or the member appointed under subsection (2)(b) to be chairman of the Board.
- (3) Subject to this Act, the appointed members of the Board shall hold office for such terms not exceeding 3 years as are specified in the respective instruments of their appointment, but shall be eligible for re-appointment.
- (4) The Minister may —
 - (a) appoint an officer of the Department of the Public Service of the State principally assisting the Minister in the administration of this Act to be deputy of the member referred to in subsection (2)(a);
 - (aa) appoint a person who is not a member of any organization referred to in subsection (2)(c) to (f) to be deputy to the member referred to in subsection (2)(b);
 - (b) appoint a person nominated by The Western Australian Turf Club to be the deputy of the member referred to in subsection (2)(c);
 - (c) appoint a person nominated by the Western Australian Trotting Association to be the deputy of the member referred to in subsection (2)(d);
 - (d) appoint a person nominated by the Western Australian Greyhound Racing Authority to be the deputy of the member referred to in subsection (2)(e); and
 - (e) appoint a person nominated by the W.A. Bookmakers' Association Inc. to be the deputy of the member referred to in subsection (2)(f),

and may approve a member of the governing body of the TAB nominated by its chairperson to be the deputy of the ex officio member referred to in subsection (2)(a)(ii).

s. 6A

- (4a) At any meeting of the Board at which a member is not present the deputy of that member may perform the functions of the member, and no act or omission of a person acting as a deputy under this section shall be questioned on the ground that the occasion for his or her acting had not arisen or had ceased.
- (5) Whenever the office of an appointed member or deputy becomes vacant, the Minister shall in writing request the relevant body to nominate a member or deputy member by submitting, in writing, the names of its nominees and such information as to the persons named as the Minister may require, and the body shall, within 14 days of receiving the request from the Minister, so submit the names of 3 nominees, or such greater number of persons as the Minister may request, and such information as may be required.
- (6) Where a body fails to submit the names of its nominees for appointment as member or deputy of the Board within the time provided by subsection (5), the Minister may appoint such person as the Minister thinks fit to be a member or deputy of the Board, as the case requires, and that appointment shall be as valid and effectual for the purposes of this Act as if the person appointed had been nominated for appointment in accordance with subsection (5).
- (7) The appointed members of the Board and the deputies of those members may be paid such fees and allowances as are from time to time determined by the Minister, after consultation with the Minister for Public Sector Management.
- (8) Schedule 1 has effect with respect to the constitution and proceedings of the governing body of the Board and of its committees.

[Section 6 inserted by No. 77 of 1976 s. 7; amended by No. 6 of 1987 s. 5; No. 63 of 1995 s. 32; No. 57 of 1997 s. 22; No. 23 of 1998 s. 20.]

6A. Vacancies, etc.

- (1) The office of an appointed member of the Board shall become vacant if —
- (a) the member is absent, except with leave of the Minister, from 4 consecutive meetings of the Board;
 - (b) the member resigns his or her office by writing under his or her hand served on the Minister, or dies;
 - (c) in the case of a member appointed under section 6(2)(c), (d), (e) or (f), the body by which the member was nominated for appointment requests the Minister in writing to terminate his or her appointment;
 - (d) the member is an insolvent under administration, as that expression is defined in the *Corporations Act 2001* of the Commonwealth; or
 - (e) the member is —
 - (i) convicted of any indictable offence; or
 - (ii) informed in writing by the Minister that, for good cause, his or her appointment as a member is terminated as at a date therein specified,

and the Minister shall appoint an eligible person to that office.

- (2) The provisions of section 6(3), and subsection (1)(b), (c), (d) and (e), apply to and in relation to the deputies of appointed members of the Board as if they were appointed members of the Board.

[Section 6A inserted by No. 77 of 1976 s. 8; amended by No. 6 of 1987 s. 6; No. 63 of 1995 s. 33; No. 17 of 1998 s. 8; No. 10 of 2001 s. 23.]

6B. Meetings of the Board

- (1) The Board shall hold such meetings as are necessary for the purposes of discharging its functions under this Act.

s. 6B

- (2) The chairman may at any time convene a meeting of the Board.
- (3) At any meeting of the Board —
 - (a) the chairman shall preside, and if the chairman is not present the deputy chairman shall preside, but if neither the chairman nor the deputy chairman is present, the members present at the meeting shall appoint one of their number to preside thereat;
 - (b) a quorum of the Board consists of an ex officio member and not less than 3 appointed members;
 - (c) all questions arising at the meeting shall be decided by a majority of the votes of the members present;
 - (d) each member shall be entitled to one vote; and
 - (e) in the event of an equality of votes the question shall be determined in the negative.
- (4) Subject to this Act the Board may regulate its procedure in such manner as it thinks fit, but shall cause minutes to be kept of its proceedings and shall, when so requested by the Minister, furnish to the Minister minutes of its proceedings at any meeting.
- (5) The powers of the Board are not affected by any vacancy in the membership of the Board, and if a quorum is present all acts and proceedings of the Board are valid and effectual, notwithstanding the vacancy.
- (6) All acts and proceedings of the Board are, notwithstanding any defect in the appointment of any member of the Board or deputy thereof, or that any such member or deputy was disqualified or not entitled to act, as valid as if the member or the deputy had been duly appointed and was qualified to act, and had acted, as a member or deputy, and as if the Board has been duly and fully constituted.

[Section 6B inserted by No. 77 of 1976 s. 9; amended by No. 63 of 1995 s. 34.]

6C. Members of the Board, etc., not personally liable

A person who is or has been a member of the Board, a deputy of such a member, or an officer or employee appointed under the *Public Sector Management Act 1994* and assisting in the administration of this Act, shall not be personally liable for anything done or omitted to be done in good faith in or in connection with the exercise or purported exercise of any power conferred, or the carrying out of any duty imposed, by, or arising under this Act.

[Section 6C inserted by No. 77 of 1976 s. 10; amended by No. 6 of 1987 s. 7; No. 63 of 1995 s. 35.]

6D. Delegation

- (1) Where the Board considers that any power or duty of the Board should be exercised or performed on its behalf by a person or body other than the Board, the Board may, by resolution, delegate all or any of its powers or duties, except this power of delegation —
 - (a) to a member or a committee of the Board;
 - (b) to a person appointed pursuant to section 7; or
 - (c) in accordance with section 59(1)(d) of the *Interpretation Act 1984*, as may be specified in the instrument of delegation,either generally or as otherwise provided by the instrument of delegation.
- (2) A power or duty delegated by the Board shall be exercised or performed by the delegate in accordance with the instrument of delegation, and when so exercised or performed shall, for the purposes of this Act, be deemed to have been exercised or performed by the Board and shall be presumed, unless the contrary is established, to have been exercised or performed by a person duly authorised by a delegation under this section.

s. 6E

- (3) A document purporting to be signed by a person as a delegate of the Board shall be deemed, unless the contrary is established, to have been signed by such a delegate and to have been so signed pursuant to the exercise of a power or performance of a duty duly delegated to the person by the Board.

[Section 6D inserted by No. 11 of 1992 s. 31; amended by No. 17 of 1998 s. 9.]

6E. The relationship between the Minister and the Board

- (1) Subject to the Minister, it shall be the duty of the Board to carry out the administration of this Act.
- (2) The Minister may give to the Board directions of a general character as to the exercise of its functions, and the Board shall give effect to such a direction, but where such a direction does not accord with recommendations of the Board the Board may make its advice to the Minister known to the public.
- (3) The text of any direction given under subsection (2) is to be —
- (a) published in the *Gazette* within 28 days after it is given;
 - (b) laid before each House of Parliament within 14 sitting days of that House after such publication; and
 - (c) included in the annual report submitted by the accountable authority of the Board under section 66 of the *Financial Administration and Audit Act 1985*.
- (4) Where the Minister has referred a question or matter to the Board for advice, the Minister may act notwithstanding that the advice has not been received, and where advice is received from the Board the Minister is not bound to act on or give effect to it.
- (5) The Board shall carry out such duties as may be required of it by the Minister under or in furtherance of the provisions of, and which are not inconsistent with, this Act or any other Act in relation to betting.

[Section 6E inserted by No. 63 of 1995 s. 36.]

6F. Minister to have access to information

- (1) For the proper conduct of the Minister's public business, the Minister is entitled to have information in the possession of the Board and to have and retain copies of documents.
- (2) For the purposes of subsection (1) the Minister may —
 - (a) request the Board to furnish information to the Minister;
 - (b) request the Board to give the Minister access to information;
 - (c) for the purposes of paragraph (b) make use of the staff of the Board to obtain the information and furnish it to the Minister.
- (3) The Board is to comply with a request under subsection (2) and make its staff and facilities available to the Minister for the purposes of paragraph (c) of that subsection.
- (4) In this section —

“document” includes any data that is recorded or stored mechanically, photographically, or electronically and any tape, disc or other device or medium on which it is recorded or stored;

“information” means documents or other information relating to the functions of the Board being information, as so defined, specified, or of a description specified, by the Minister.

[Section 6F inserted by No. 63 of 1995 s. 37.]

6G. Functions of the Board

- (1) Subject to any other written law, it shall be the duty of the Board —
 - (a) to administer the law relating to the regulation of betting carried on under this Act or the *Totalisator Agency Board Betting Act 1960*;

- (b) to review the conduct, extent and character of that betting, including the provision, use and location of the betting facilities, and to cause licences, permits and authorisations relating to that betting to be issued as appropriate;
- (c) in conjunction with the Gaming Commission and the racing industry controlling authorities, taking into account the requirements and interest of the community as a whole, to formulate and implement policies for the scrutiny, control and regulation of that betting;
- (d) to —
 - (i) license; or
 - (ii) grant, refuse or revoke any permit, approval, or authorisation in respect of,
persons, premises, facilities, equipment and betting operations concerned with betting or in relation to whom or which a licence, permit, approval or authorisation is sought;
- (e) to advise the Minister, either of its own motion or upon the request of the Minister, as to any matter relating to that betting;
- (f) to make recommendations to the Minister in relation to the control or supervision of particular kinds of betting or betting in particular circumstances, and as to the fees and charges to be prescribed;
- (g) to administer a scheme for the collection and verification of the payments of bookmakers' betting levy —
 - (i) to be remitted under section 15(5)(b); or
 - (ii) deliverable under section 16(3)(c),together with any additional levy payable under section 18B, and, subject to subsections (1a), (1b) and (1c) to cause to be paid into the Consolidated Fund all

such moneys as are from time to time received by the Board;

- (h) to enforce, and to prosecute persons contravening —
 - (i) this Act; and
 - (ii) the *Totalisator Agency Board Betting Act 1960*,

and, for the purposes of this Act, to carry out such other activities, or perform such other functions, as may be prescribed.

- (1a) Moneys for the time being held by the Board in respect of payments of bookmakers' betting levy made under section 15 in relation to betting of the kind referred to in sections 4A and 4B are to be credited to the account referred to in section 9(2) until paid under subsection (1c).
- (1b) The Board shall, at quarterly intervals, notify the Minister of the Crown responsible for sport and recreation of the amount of moneys referred to in subsection (1a).
- (1c) The Board shall pay the moneys referred to in subsection (1a) —
 - (a) to the persons or bodies of persons;
 - (b) for the purposes; and
 - (c) in the respective amounts,

directed in writing by the Minister of the Crown responsible for sport and recreation.

- (2) Subject to this Act, the Board has such powers as are necessary to carry out its duties and, in particular, may —
 - (a) formulate and implement policies for the administration and control of betting conducted in the State under this Act or the *Totalisator Agency Board Betting Act 1960*;
 - (b) approve, or withhold approval from, persons, premises, facilities, equipment and betting operations, for the purposes of this Act or the *Totalisator Agency Board Betting Act 1960*;

- (c) formulate, and impose, prohibitions or conditions to be applicable to, or in relation to, the conduct of betting, the type of betting which may or may not be conducted, and the rules under which betting is to be conducted;
 - (d) grant or issue, and amend or revoke, licences, permits, approvals or authorisations relating to betting and the use of premises for betting;
 - (e) seek, receive, disseminate or publish information relevant to betting and the incidence of betting and its effect in the community; and
 - (f) make prescribed charges and impose prescribed fees.
- (3) For the purpose of administering the requirements of this Act the Board may require such reports to be furnished, and institute and carry out such inspections, investigations and inquiries, as the Board considers to be necessary or expedient.

[Section 6G inserted by No. 63 of 1995 s. 38; amended by No. 17 of 1998 s. 10.]

7. Administration

- (1) There may be appointed under and subject to Part 3 of the *Public Sector Management Act 1994* such officers and other employees as are necessary for the purpose of assisting in the administration of this Act.
- (2) Subject to the Minister, the Board may request the chief executive officer of the department of the Public Service of the State known as the Office of Racing, Gaming and Liquor² to make available the services of any officer of, or facilities provided by, that department to undertake such matters as the Board considers to be necessary or expedient for the purposes of this Act.
- (3) The Board may engage, under contract for services, such consultants as may be necessary to enable the Board to carry out effectively its functions under this Act, and may enter into

arrangements with other bodies or persons, whether in the State or elsewhere, with respect to the conduct of any research, study, inquiry or investigation or to any professional, technical or other assistance that may be necessary or expedient for the purposes of this Act.

- (4) On the request of the Board the Commissioner of Police may cause inquiry or investigations to be made, and report, as to —
- (a) any testimonial, books or other information supplied by or on behalf of a person who is the holder of, or an applicant for, any licence, permit, approval or authorisation under this Act;
 - (b) the character, reputation, and antecedents of any such person, and of any associate or suspected associate of that person, including as to whether or not, and the extent to which, that person acts or is reputed to be accustomed to act in accordance with the directions or interests of any other person;
 - (c) the suitability of —
 - (i) any person to conduct, or to be concerned in the conduct of, betting under this Act or the *Totalisator Agency Board Betting Act 1960*;
 - (ii) any individual appointed to act on behalf of any body, corporate or unincorporate; or
 - (iii) a person for whom another acts;
 - (d) any premises, facilities, equipment, betting operations, accounting procedures, advertising or inducements, used or suspected of being used in connection with betting, or intended to be so used;
 - (e) any matter concerning a racing club, relevant to its operations under this Act;
 - (f) the conduct or suspected conduct of any betting, or suspected betting; and

- (g) allegations, representations or objections made in respect of any such matters,

for which purpose the Commissioner of Police is authorised to disclose criminal records in any report to the Board and, if the Board so requests, to a court.

- (5) The contents of any report made to the Board by a member of the Police Force or any other person required under this Act to furnish such a report are absolutely privileged —
 - (a) from production; and
 - (b) in relation to any proceedings for defamation in any court of law,

unless a Judge otherwise directs.

[Section 7 inserted by No. 6 of 1987 s. 8; amended by No. 32 of 1994 s. 3(2); No. 63 of 1995 s. 46.]

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

9. Funds of the Board

- (1) The funds available for the purpose of enabling the Board to perform its functions consist of —
 - (a) money from time to time appropriated by Parliament; and
 - (b) any other money lawfully received by, or made available, given or payable to, the Board for the purposes of this Act.
- (2) There shall be established and kept —
 - (a) at the Treasury, as an account forming part of the Trust Fund constituted under section 9 of the *Financial Administration and Audit Act 1985*; or
 - (b) with the approval of the Treasurer, at a bank,

an account to be called the “Western Australian Betting Control Board Fund”, and the cost of the administration of this Act shall be paid from that account.

- (3) There shall be credited to the Fund, subject to the payment —
- (a) into the Consolidated Fund in accordance with the scheme referred to in section 6G(1)(g); or
 - (b) under section 6G(1c),

of any amount received by the Board in respect of bookmakers' betting levy, all moneys to which subsection (1) refers.

- (4) The Fund may be used —
- (a) to meet the costs of the administration of this Act, including any expense incidental to the administration of the Fund;
 - (b) so far as the Board may be liable for that payment, for the payment of any expense directly connected with the control or management of on-course or off-course betting on racing or betting on sporting events, or any other activity not inconsistent with this Act assumed by the Board; and
 - (c) for any other expenditure lawfully incurred under and for the purposes of this Act.

[Section 9 inserted by No. 63 of 1995 s. 39; amended by No. 17 of 1998 s. 11.]

10. Application of *Financial Administration and Audit Act 1985*

- (1) The provisions of the *Financial Administration and Audit Act 1985* regulating the financial administration, audit and reporting of statutory authorities apply to and in respect of the Board and its operations.
- (2) Notwithstanding the provisions of the *Financial Administration and Audit Act 1985*, the financial year of the Board shall end on 31 July.

[Section 10 inserted by No. 63 of 1995 s. 40.]

11. Applications for, and discretion of Board to grant, licences

- (1) Applications for licences may be made to the Board, which may grant or refuse an application for a licence.
- (1a) On the coming into operation of the amendments to this section effected by the *Acts Amendment and Repeal (Betting) Act 1992*¹, a person who immediately prior thereto was the holder of a Certificate of Authority issued by the Board under the *Betting Control Regulations 1978* shall be deemed on that date to have been issued with a licence as a bookmaker's employee.
- (2) Subject to the provisions of this Act a licence, unless suspended or cancelled pursuant to a determination made administratively by the Board in the exercise of prescribed disciplinary powers, remains current —
 - (a) in the case of a bookmaker's licence, during the lifetime of the holder or until surrendered; and
 - (b) in the case of a bookmaker's employee's licence, for a period of 5 years,

but no licence shall 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.

- (3) On an application in the prescribed form accompanied by the prescribed fee being lodged with the Board, unless subsection (1a) applies, and on such supporting information as the Board may direct being furnished to the satisfaction of the Board, and in the case of an application for a bookmaker's licence subject also to subsection (3a), the Board may grant the application and thereupon —
 - (a) issue to the applicant a bookmaker's licence; or
 - (b) issue to the applicant, or renew, a licence as a bookmaker's employee,

but if the application is refused the Board shall not be required to specify any reason.

- (3a) On an application for a bookmaker's licence the applicant shall, on being required to do so by the Board, lodge with the Board —
- (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 Board unless every condition upon which the security is defeasible is proved to have been performed, in the form of a bond approved by the Board, and shall be —
 - (i) accompanied by cash to be held by the Treasurer; or
 - (ii) entered into by an insurance company, bank, or person acceptable to the Board,as security for the due observance by the bookmaker and the employees 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 an employee; and
 - (b) a statement of the assets and liabilities of the applicant verified in such manner as the Board may require.
- (3b) An application for the issue of a bookmaker's licence in relation to any particular code of racing may be granted notwithstanding that the applicant is the holder of a licence as a bookmaker's employee in relation to some other code of racing.
- (4) A bookmaker's licence 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 he holds a permit to do so from the committee or other authority controlling the race course;
 - [(b) deleted]*

- (c) 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).
- (5) The Board shall not grant a licence —
 - [(a) deleted]*
 - (b) to a person under the age of 18 years;
 - (c) to a body corporate;
 - (d) to an undischarged bankrupt.
- (6) A licence as a bookmaker's employee 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 controlling authority of 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 or substitute for a bookmaker named in that permission;
 - and
 - (b) to carry out such other functions under this Act as the Board may, in writing from time to time, authorise.
- (7) Where an 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 employee relating to the business, and for all betting tickets written;
 - (ii) is severally liable in respect of any offence against this Act committed by the employee by

way of an act or omission related to the business of the bookmaker, notwithstanding that the bookmaker may have had no knowledge of or relating to that act or omission or any intention that the act should be done or omission made; and

- (iii) 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 employee shall not, otherwise than in accordance with this Act, make bets or write betting tickets as if the employee were a bookmaker.

- (8) When determining whether or not to approve an application under this section, the Board —

- (a) is required to 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
- (b) may take into account not only the applicant but also the repute and background of persons suspected by the Board to be associated with the applicant.

- (9) A person who in, or in relation to —

- (a) any application or matter to be determined by the Board, or by a steward in charge of a race meeting under section 12A; or
- (b) any —
 - (i) statement of assets or liabilities;
 - (ii) return or other record; or

(iii) thing,

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.

- (10) A person who, by an act intended to falsify or destroy the record, alters or destroys any record to which subsection (9) relates commits an offence.

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

- (11) 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 Board by the Commissioner of Police; or
- (b) this Act, in the course of the administration of this Act,

commits an offence.

Penalty: \$5 000.

- (12) The Board 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 Board 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 Board the operation of the licence may be suspended until the licensee has complied to the satisfaction of the Board; and
 - (f) deduct from any sum recovered by the Board under a security the costs and expenses of that recovery.
- (13) After deduction of the costs and expenses authorised by subsection (12)(f), the balance of any sum recovered by the Board under a security 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 Board decides are the betting debts of the bookmaker; and
 - (c) if there is any sum then remaining, in repayment to the surety or bookmaker from whom the sum was recovered.
- (14) Before a security lodged with the Board is discharged the Board may require a licensee, or former licensee, in respect of whose licence the security was lodged to produce at the office of the Board all records relating to the conduct of business under that licence, or such of those records as the Board specifies in

writing, for inspection by the Board, and a person who contravenes any such requirement commits an offence.

Penalty: \$5 000.

(15) A member or officer of the Board may inspect and take copies of any records produced to the Board under this Act, for use at the discretion of the Board.

(16) 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.

(16a) Without limiting the matters which a court may take into consideration when passing sentence in respect of an offence committed under subsection (16), the court may take into consideration when so passing sentence any interstate offence of which the defendant has previously been convicted.

(16b) In subsection (16a) —

“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 (16).

(17) The suspension, cancellation or surrender of a licence —

- (a) does not 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 Board; or

- (b) release the holder or former holder of the licence from any obligation in relation to a bet.

- (18) 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 Board of the conviction as soon as may be practicable and shall furnish to the Board such information regarding that offence and the conviction as the Board may require.

[Section 11 amended by No. 66 of 1960 s. 2; No. 77 of 1976 s. 12; No. 78 of 1978 s. 4; No. 6 of 1987 s. 9; No. 11 of 1992 s. 32; No. 63 of 1995 s. 47; No. 17 of 1998 s. 12; No. 23 of 1998 s. 12.]

12. Permits required to bet on race courses, etc.

- (1) Nothing in this Act authorises a bookmaker, or the employee 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 11 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 —
 - (a) except as regards betting on sporting events as authorised and approved under section 4B, during the holding of a race meeting at the race course; or

- (b) in the case of a race meeting held at the race course on Anzac Day, during the period commencing at 12 noon on Anzac Day and ending at the completion of that race meeting.
- (4) The committee or other authority controlling a race course may —
 - (a) permit a bookmaker to use a licensed employee, being an 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.
- (5) The committee or other authority controlling a race course shall —
 - (a) upon request, furnish to the Board 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 the prescribed form, setting out the prescribed particulars of bookmakers, the consideration for bets and the bookmakers' betting levy paid and payable, is delivered to the Board in a manner approved by the Board; and
 - (iv) payment of bookmaker's betting levy is duly made;
- (d) report to the Board, as soon as is practicable, the result of any hearing or appeal, relating to improper conduct or a breach of the rules on the part of a bookmaker or licensed employee, conducted by or on behalf of that committee or other authority.

s. 12A

- (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 Board, 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.

[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.]

12A. Temporary bookmakers' employees' licences

- (1) A bookmaker may apply in the prescribed form to a steward in charge of a race meeting for a temporary 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.
- (2) A steward to whom an application is made under subsection (1) 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 his or her business at the race meeting 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 the prescribed form 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 Board 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 this section in respect of a race meeting; and

(b) who does not, within 3 days of the conclusion of the race meeting, communicate to the Board 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).

[Section 12A inserted by No. 17 of 1998 s. 13.]

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 Board;

- (c) provide for the delivery, by bookmakers to the Board, 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.]

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 his or her own behalf in the capacity of a backer but not in the capacity of bookmaker; and
- (b) the Board shall have an absolute discretion to decide what is and what is not a bet made by a bookmaker on his or her 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 his or her 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 his or her 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.]

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

- (1) Where a person with permission of a racing club conducting a race meeting bets as a bookmaker (whether in person, or as the agent of or substitute for a bookmaker) at the meeting, 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 Board 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 meeting, 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, 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 —
- (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; 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 Board, in an approval given under section 4B(2) or otherwise;

and the bookmaker in person, 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, or the agent or substitute where a person was so acting for the bookmaker, shall cause to be delivered to the racing club within 3 days of the race meeting if the race meeting is one on which agencies of the Totalisator Agency Board have been open for the acceptance of investments thereon and within 7 days otherwise —
- (a) a return in the form approved by the Board 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 in respect of a sporting event 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 Board, in an approval given under section 4B(2) 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; or

(iii) any portion of that sum that relates to betting other than betting referred to in subparagraphs (i) and (ii),

such percentage of that portion as is prescribed, and shall apply one-half of the total amount so retained towards increasing stakes, and apply the remaining half to such purposes as that racing club thinks fit; and

(b) shall within such time of receiving that sum from the bookmaker, as the Board 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 Board, and supply to the Board such particulars as the Board requisitions and is hereby authorised to requisition.

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

- (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.]

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

- (1) When a person bets as a bookmaker (whether in person or as the agent of or substitute for the 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 Board 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, 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 Board 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 Board 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 Board signed by the bookmaker in person, or the agent or substitute where a person is so acting for 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 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; or
 - (iii) any portion of that sum that relates to betting other than betting referred to in subparagraphs (i) and (ii),
such percentage of that portion as is equal to the appropriate prescribed percentage referred to in section 15(5)(a), and shall apply one-half of the total amount so retained towards increasing stakes, and apply the remaining half to such purposes as that racing club thinks fit; and
 - (b) shall within such time of receiving that sum from the person as the Board 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 Board and supply to the Board such particulars as the Board 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 Board within the appointed time, the Board 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 Board 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 Board.
- (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.]

16A. Books of account, records etc.

- (1) A 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 Board;
- (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 Board 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 Board;
 - (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, 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 Board 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 Board 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 Board or some other person authorised by or under this Act so to require —
 - (i) notify the Board, 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 Board 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 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.]

[16B, 16C. Repealed 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 or a licensed employee on behalf of that

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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 Board 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 Board 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 Board 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.]

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 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 Board 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.]

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* or the *Totalisator Act Amendment Act 1899* or pursuant to a licence under the *Totalisator Regulation Act 1911*; or

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(ii) by the Board under section 17D;

and

(b) that authorisation is not suspended or cancelled by the Board 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).

(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 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 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.

[Section 17B inserted by No. 11 of 1992 s. 61; amended by No. 63 of 1995 s. 56.]

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. Board may authorise possession and operation of a totalisator by a racing club

Where the Board 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 Board in the prescribed manner and such information as may be prescribed or required by the Board having been furnished, be granted by the Board an authorisation to possess and operate a totalisator at that racecourse.

[Section 17D inserted by No. 11 of 1992 s. 61.]

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

- (1) Where the amount of any bet (other than a fixed odds bet) is, in the first instance, received by the TAB or one of its agencies —
 - (a) the TAB 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 by the TAB shall for all purposes belong to the TAB and form part of the general funds of the TAB.
- (2) Where the TAB is of the opinion that it is necessary, in order to participate in a combined totalisator pool scheme of a kind to which section 27 of the *Totalisator Agency Board Betting Act 1960* refers, to amend the percentage of the commission that would otherwise be payable under subsection (1) the TAB may determine what that percentage should be and deduction of the amount of commission at the rate so determined, instead of at the rate prescribed, shall be lawful.

[Section 17E inserted by No. 63 of 1995 s. 57; amended by No. 40 of 1999 s. 32.]

17EA. Management of fixed odds – prescribed margin

- (1) When fixed odds betting is conducted by the TAB on a race or event, the TAB 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 the TAB 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.]

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

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 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.]

18A. Payment of levy

- (1) A racing club shall forward to the Board, within 14 days after the conducting by it of a race meeting within the metropolitan area or within 21 days if the race meeting conducted by it is held in the country, a return in the form approved by the Board 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 Board, 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 in respect of a sporting event 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 Board, in an approval given under section 4B(2) or otherwise.

- (2) When and as often as the return required by this section is forwarded to the Board it shall be accompanied by —
 - (a) the payment to the Board 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.]

18B. Assessments, and additional levy

- (1) Where the Board 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 Board 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 Board 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 Board, or because the Board 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 Board 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 Board may cause an assessment to be made of the amount of fee due or upon which, in the judgement of the Board, 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 Board 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 who 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 Board may, for reasons which the Board thinks sufficient in any particular case, remit that penalty fee or the additional levy, wholly or in part.
- (6) Where the Board 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 Board has reason to believe or suspect represents a bet made, the Board 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.]

19. Board 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 Board or to a racing club, the Board 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]

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(b) by the bookmaker.

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

19A. Board 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 Board 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.]

20. Powers of inspection

- (1) Officers authorised in writing by the Board to do so, whether generally or for a particular case, may on producing the written authorisation, or a person who is an authorised officer within the meaning of the *Gaming Commission Act 1987* may on producing the certificate evidencing his or her appointment under that Act —
 - (a) require a bookmaker or any licensed employee or other person who the officer has reason to believe is or has been acting on behalf of a bookmaker, 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 or her 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 by the secretary of The Western Australian Turf Club or the secretary of the Western Australian Trotting Association or the secretary of the Western Australian Greyhound Racing Authority 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 or any person who the officer has reason to believe is or has been acting as a licensed employee or otherwise on behalf of a bookmaker to produce for inspection anything in his or her 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 any thing required under subsection (1) or (2) for inspection by the officer;
 - (b) does not, when required, answer to the best of his or her knowledge, information, and belief, a question relating to betting put by the officer; or
 - (c) hinders or obstructs the officer in carrying out his or her duties,
- commits an offence.
- Penalty: \$500, unless subsection (6) applies.
- (4) A member of the Board, any person authorised by the Board, a person who is an authorised officer within the meaning of that term in the *Gaming Commission Act 1987* on production by that person of the certificate evidencing appointment as such under that Act, and any police officer has at all times authority to enter, and authority to inspect, any —
- (a) race course;

- (b) premises to which section 5(2) for the time being applies; or
 - (c) premises, vehicle or vessel from or on which a bookmaker carries on business.
- (5) A person refusing to admit, or otherwise hindering, delaying or obstructing, a person authorised under subsection (4) in the exercise of that authority commits an offence.
Penalty: \$500, unless subsection (6) applies.
- (6) A bookmaker or licensed employee —
- (a) contravening subsection (3); or
 - (b) hindering, delaying or obstructing a person referred to in subsection (4) in the exercise of any power or duty conferred on such a person by or under this Act,
- commits an offence.
Penalty: \$2 000.

[Section 20 amended by No. 77 of 1976 s. 16; No. 6 of 1987 s. 13; No. 74 of 1987 s. 5; No. 11 of 1992 s. 42; No. 63 of 1995 s. 64; No. 17 of 1998 s. 18; No. 23 of 1998 s. 20.]

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

- (1) 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;
 - (b) bet with, or pay money or deliver property relating to a bet to, a person apparently under the influence of intoxicating liquor;
- [(c) and (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;
 - (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);
 - (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 the TAB for any person who is —
 - (i) under the age of 18 years; or
 - (ii) 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 the TAB 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 the TAB or employee of an agent of the TAB; 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.]

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;
 - (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 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);
- (b) make a bet with or through the TAB; or
- (c) request any other person to place such a bet 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.]

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

- (1) No person shall make a bet at or in a place, or be at or in a public place for the purpose of betting, 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 —

- (a) unless the premises are premises to which section 5(2) for the time being applies, or the place is a race course where —
 - (i) a race meeting is being held at the race course by the Western Australian Greyhound Racing Authority or under permit or licence issued under Part VI of the *Western Australian Greyhound Racing Authority Act 1981* or under the *Racing Restriction Act 1917*; or
 - (ii) in the case of a race meeting held at the race course within the meaning of subparagraph (i) on Anzac Day, a bookmaker is permitted by

section 12(3) to bet or carry on business as such at the race course on Anzac Day;

- (b) unless the bet is made —
 - (i) by means of a totalisator duly authorised to operate under, and in accordance with, a written law;
 - (ia) as a fixed odds bet with the TAB or one of its agents in accordance with a written law; or
 - (ii) otherwise, with a bookmaker in accordance with this Act; or
- (c) unless the bet constitutes permitted gaming within the meaning of the *Gaming Commission Act 1987*.

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

- (2) No person shall knowingly —
 - (a) place a bet for a person who is apparently under the age of 18 years; or
 - (b) place a bet for, or 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.]

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
- (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, commits an offence.

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

- (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 defendant 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 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 subsection (1).

- (3) A complaint for an offence against this section committed after the commencement of this subsection, may be made 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.]

25. Bookmakers may be ordered not to bet

- (1) Upon proof being given to the satisfaction of any 2 Justices of the Peace 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, such justices may order that no bookmaker shall bet with such person for not exceeding the space of one year.
- (2) Any 2 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) An order made under subsection (1) shall be given effect to by the TAB, any person authorised to operate a totalisator, and any person who is, or acts on behalf of, any bookmaker, and neither the TAB 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) repealed]

- (5) An order made under this section may be revoked by any 2 Justices of the Peace.
- (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.]

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.

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 Licensing 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 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 Licensing 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.]

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

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 —

[(a) deleted]

(b) unless the place is a race course where —

(i) a race meeting is being held at the race course by the Western Australian Greyhound Racing Authority or under permit or licence issued under Part VI of the *Western Australian Greyhound Racing Authority Act 1981* or under the *Racing Restriction Act 1917*; or

(ii) in the case of a race meeting held at the race course within the meaning of subparagraph (i) on Anzac Day, a bookmaker is permitted by section 12(3) to bet or carry on business as such at the race course on Anzac Day;

(c) unless the betting is carried on —

(i) by means of a totalisator duly authorised to operate under, and in accordance with, a written law; or

(ii) otherwise, in accordance with this Act;

(ca) unless the provisions of section 5(2) apply;

(d) unless the betting is done in accordance with the provisions of the *Totalisator Agency Board Betting Act 1960*; or

- (e) unless the betting constitutes permitted gaming within the meaning of the *Gaming Commission Act 1987*.

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

[Section 27 amended by No. 49 of 1960 s. 13; No. 113 of 1965 s. 8(1); No. 77 of 1976 s. 18; No. 78 of 1978 s. 7; No. 34 of 1985 s. 8; No. 74 of 1987 s. 8; No. 11 of 1992 s. 49; No. 63 of 1995 s. 74; No. 17 of 1998 s. 21; No. 23 of 1998 s. 20.]

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.
- (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 complaint made 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 a warrant in the form of the Second Schedule.
- (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;

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- (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 2 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) 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 stipendiary magistrate or 2 justices to claim the betting material or money, and satisfy the magistrate or justices 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 or 27.
- (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) A stipendiary magistrate, or 2 justices, 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 a magistrate or justices 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 magistrate or justices 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.]

28B. Prima facie evidence of offence

Where, on the hearing of any complaint for an offence against section 23, 24 or 27 —

- (a) the evidence of the prosecution is such as to raise in the mind of the court hearing the complaint a reasonable suspicion that the person charged in the complaint 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 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 in the complaint; 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 against that person in the complaint.

[Section 28B inserted by No. 14 of 1961 s. 2; amended by No. 63 of 1995 s. 76.]

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 the TAB; 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.]

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.]

28E. Penalty for officers of the TAB, 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 the TAB 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.]

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

- (1) The provisions of sections 28D and 28E do not apply —
 - (a) to the TAB, any manager, secretary, officer, employee or agent of the TAB, or to any employee of the agent, in

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- respect of any bet properly made through or with the TAB 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 the TAB.
- (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 the TAB; 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 the TAB, after those dividends have been declared on the totalisator or by the TAB.

[Section 28F inserted by No. 63 of 1995 s. 80.]

28G. Penalty for accepting bets after closing time

Any manager, secretary, officer, employee or agent of the TAB, 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.

[Section 28G inserted by No. 63 of 1995 s. 81.]

29. Penalty for providing credit

An officer, agent or employee of the TAB or any employee of an agent of the TAB who accepts a bet through the TAB involving the provision of credit by the TAB, contrary to the provisions of section 33 of the *Totalisator Agency Board Betting Act 1960*, commits an offence.

Penalty: \$5 000.

[Section 29 inserted by No. 40 of 1999 s. 36.]

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. Prosecution of offenders

- (1) An offence under this Act or the *Totalisator Agency Board Betting Act 1960* may be prosecuted by or on behalf of the Board.
- (2) The conviction or acquittal of a person on a complaint of an offence under this Act shall not prevent a further prosecution and conviction in respect of a continuation of that offence after the date on which he was convicted or acquitted.

[Section 30A inserted by No. 11 of 1992 s. 53; amended by No. 63 of 1995 s. 82; No. 17 of 1998 s. 22.]

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
 - (ii) on a race course, an employee who does not hold a permit from the committee or other controlling authority of that race course in respect of the aspects of the business to be carried on by that employee;
 - (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, 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 —
 - (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 Board; 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.]

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 Board, 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 Board 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 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 his 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 Board 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 a complaint arising out of the bet is made against another person, on the hearing of the complaint 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 an employee or agent of the person against whom the complaint is made 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 Board and any police officer may seize and take before a justice 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.]

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 Board 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 Board by notice in writing delivered to the Board —
- (a) if the race course is in the metropolitan area, within 3 days; or
 - (b) in any other case, within 7 days,
- of that determination, but may be heard at the discretion of the Board where special circumstances exist if lodged otherwise, and shall be decided by the Board 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 Board 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 Board 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 Board for decision that person may apply to the Board for a direction that the bet, on terms decided by the Board, shall be payable by the bookmaker.

[Section 32 inserted by No. 11 of 1992 s. 56.]

32A. Disciplinary powers

- (1) The powers conferred by this section shall be exercised by the Board administratively, but the Board may require the holder of a licence, or of an authorisation to possess or operate a totalisator, under this Act to show cause why such a power should not be exercised.
- (2) Where the Board 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 Board 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 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; or

- (d) has become incapable of properly conducting the business, or any aspect of the business, of a bookmaker, the Board may take disciplinary action.
- (3) Where the Board determines that a proper cause for disciplinary action exists the Board 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 Board 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 Board 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 Board 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 Board 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 11(12) and (13) 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 Board 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.]

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;
 - (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 Board 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 Board 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 and employees;
- (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, the TAB 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) meetings and procedure of the Board;
- (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 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 of a kind referred to in subsection (3) or regulations made under this Act or the *Totalisator Agency Board Betting Act 1960* in relation to a totalisator, so far as they are applicable, apply in relation to bets made through the TAB 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 the TAB and transmitted to a totalisator.
- (3) In subsection (2), “rules” include —
- (a) rules made by the TAB under section 15 of the *Totalisator Agency Board Betting Act 1960*;
 - (b) by-laws having effect under *The Western Australian Turf Club Act 1892* or under the *Western Australian Trotting Association Act 1946*;
 - (c) rules of racing having effect under the *Western Australian Greyhound Racing Authority Act 1981*; and
 - (d) by-laws, rules or regulations made by a racing club under the *Associations Incorporation Act 1895*³, the *Associations Incorporation Act 1987*, or any other written law.

[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.]

34. Inconsistency

Where and to the extent that there is inconsistency between —

- (a) the provisions of the *Gaming Commission Act 1987* or of regulations made under that Act, the *Totalisator*

- Agency Board Betting Act 1960* or this Act, being provisions relating to the control of betting; and
- (b) the provisions of rules of racing or subsidiary legislation having effect —
- (i) under *The Western Australian Turf Club Act 1892*;
 - (ii) under the *Western Australian Trotting Association Act 1946*;
 - (iii) under the *Western Australian Greyhound Racing Authority Act 1981*; or
 - (iv) where made by a racing club, under the *Associations Incorporation Act 1895*², the *Associations Incorporation Act 1987*, or any other written law,
- being provisions relating to the regulation of racing or the control of betting or in relation to the possession, operation or use of totalisators,

the provisions mentioned in paragraph (a) prevail.

[Section 34 amended by No. 77 of 1976 s. 20; No. 74 of 1987 s. 10; No. 63 of 1995 s. 85; No. 23 of 1998 s. 20.]

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

36. Review of this Act

- (1) The Minister shall as soon as is practicable after the day fixed, or the first of the days fixed, as the case requires, under section 2 of the *Betting Control Amendment Act 1998* carry out a review of the operation of this Act and in the course of such review the Minister shall consider and have regard to —
- (a) the attainment of the purposes of this Act;
 - (b) the administration of this Act;

- (c) the effectiveness of the operation of the Board and the Department principally assisting the Minister in the administration of this Act in relation to this Act;
 - (d) the need for the continuation of the Board; and
 - (e) such other matters as appear to him to be relevant.
- (2) The Minister shall prepare a report based on the review made under subsection (1) and shall as soon as is practicable after its preparation, cause the report to be laid before each House of Parliament.

[Section 36 inserted by No. 6 of 1987 s. 16; amended by No. 17 of 1998 s. 26.]

Schedule 1

[Section 6(8)]

Provisions applicable to the Board and Committees

1. Tenure of office

A member whose term of office expires due to the effluxion of time —

- (a) is eligible to be reappointed; and
- (b) continues in office until he or she is reappointed or a successor comes into office (as the case may be).

2. Disclosure of interests

- (1) A member of the Board or of a committee of the Board who has a direct or indirect interest, other than as a member, in a matter before the Board or a committee —

- (a) shall, as soon as the person is aware of the matter, disclose the nature of the interest to the Board or the committee; and
- (b) shall not without the approval of the Board or the committee take part in any deliberation or decision of the Board or committee with respect to the matter.

Penalty: \$5 000.

- (2) A disclosure made by a person under this clause shall be recorded in the minutes of the Board of the committee.

3. General procedure concerning meetings

The procedure for convening meetings of the Board or a committee and the conduct of business at those meetings shall, subject to this Act, be as determined by the Board.

4. Committees

- (1) The Board may from time to time appoint committees of members, or such members and other persons as it thinks fit, and may discharge or alter any committee so appointed.

- (2) Any committee shall cause accurate minutes of its meetings to be recorded and preserved.
- (3) Subject to this Act, the directions of the Board and the terms of any delegation under section 6D, each committee may determine its own procedures.

5. Resolution may be passed without meeting

A resolution in writing signed or assented to by each member by letter, telegram, telex or facsimile transmission is as valid and effectual as if it had been passed at a meeting of the Board.

[Schedule 1 inserted by No. 63 of 1995 s. 41.]

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 _____ in the State
(occupation) that there is reason to
suspect that unlawful betting within the meaning of section 28A 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 section 28A(4) 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 2 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
20____

=====

Notes

¹ This reprint is a compilation as at 12 April 2002 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 previous reprints.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Betting Control Act 1954</i>	63 of 1954	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	18 Dec 1956	18 Dec 1956
<i>Betting Control Act Continuance Act 1957</i>	36 of 1957	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	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	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	2 Dec 1960	2 Dec 1960
<i>Anzac Day Act 1960</i> s. 9	73 of 1960	12 Dec 1960	12 Dec 1960
<i>Betting Control Act Amendment Act 1961</i>	14 of 1961	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	13 Nov 1963	13 Nov 1963
<i>Decimal Currency Act 1965</i>	113 of 1965	21 Dec 1965	s. 4-9: 14 Feb 1966 (see s. 2(2)); balance: 21 Dec 1965 (see s. 2(1))
<i>Acts Amendment (Commissioner of State Taxation) Act 1970</i> Pt. IX	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

Betting Control Act 1954

Short title	Number and year	Assent	Commencement
<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</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)
<i>Acts Amendment and Repeal (Betting) Act 1992 Pt. 3 and 4</i>	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 Betting Control Act 1954 as at 20 Aug 1991 (includes amendments listed above)			
<i>Acts Amendment (Public Sector Management) Act 1994 s. 3(2)</i>	32 of 1994	29 Jun 1994	1 Oct 1994 (see s. 2 and <i>Gazette</i> 30 Sep 1994 p. 4948)

Short title	Number and year	Assent	Commencement
<i>Acts Amendment (Racing and Betting Legislation) Act 1995 Pt. 3</i>	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 s. 4</i>	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 s. 22</i>	57 of 1997	15 Dec 1997	15 Dec 1997 (see s. 2(1))
<i>Betting Control Amendment Act 1998⁴</i>	17 of 1998	15 Jun 1998	1 Aug 1998 (see s. 2 and <i>Gazette</i> 21 Jul 1998 p. 3825)
<i>Western Australian Greyhound Racing Association Amendment Act 1998 s. 20</i>	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 Pt. 3</i>	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 Pt. 7</i>	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)

² Under the *Alteration of Statutory Designations Order (No. 3) 2001* the former Office of Racing Gaming and Liquor is now called the Department of Racing, Gaming and Liquor.

³ Repealed by the *Associations Incorporation Act 1987* s. 47.

⁴ 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.

”

Defined Terms

*[This is a list of terms defined and the provisions where they are defined.
The list is not part of the law.]*

Defined Term	Provision(s)
approved area	4(1)
bets	24(2)
betting material	4(1)
Board.....	4(1)
bookmaker	4(1)
condition	4(1)
consideration	4(1)
designated sporting event.....	4(1)
document.....	6F(4)
employee.....	4(1)
equipment.....	4(1)
fixed odds bet.....	4(1)
information.....	6F(4)
interstate offence	11(16b), 24(2)
levy.....	14(1)
licence	4(1)
licensed employee.....	4(1)
machine	4(1)
metropolitan area	4(1)
money.....	4(1)
on-course turnover	13(2), 14(1), 17A(2)
permit	4A(8)
permittee	4(1)
place	4(1)
possession	4(1)
public place	4(1)
race.....	4(1)
race course	4(1)
race meeting	4(1)
racing club.....	4(1)
record	4(1)
registered place	4(1)
rules.....	33(3)
temporary licence	12A(8)
the Fund	4(1)
the relevant person	16(3d)
the TAB.....	4(1)
ticket.....	4(1)
to bet	4(1), 4(1)

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Defined Terms

total turnover	13(2), 17A(2)
totalisator	4(1)
totalisator agency	4(1)
totalisator ticket.....	4(1)
turnover	13(2), 14(1), 17A(2)
unlawful betting	28A(3)