

Approved for Reprint 22nd January, 1979.

WESTERN AUSTRALIA.

## TOTALISATOR AGENCY BOARD BETTING.

9° Elizabeth II., No. L.

No. 50 of 1960.<sup>1</sup>

(Affected by Acts No. 51 of 1960, s. 2; No. 54 of 1960  
and No. 113 of 1965.)

[As amended by Acts:

- No. 15 of 1961, assented to 20th October, 1961;
- No. 39 of 1962, assented to 29th October, 1962;
- No. 26 of 1963, assented to 13th November, 1963;
- No. 51 of 1963,<sup>2</sup> assented to 17th December, 1963;
- No. 28 of 1966,<sup>3</sup> assented to 27th October, 1966;
- No. 21 of 1970,<sup>4</sup> assented to 8th May, 1970;
- No. 65 of 1970, assented to 17th November, 1970;
- No. 46 of 1972,<sup>5</sup> assented to 18th September, 1972;
- No. 87 of 1972,<sup>6</sup> assented to 20th November, 1972;
- No. 103 of 1972, assented to 6th December, 1972;
- No. 64 of 1973,<sup>7</sup> assented to 28th November, 1973,

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

**AN ACT to constitute a Totalisator Agency Board and to Authorise, Regulate and Control Betting off a Race Course on Totalisators through the Board and Betting with the Board and for incidental and other purposes.**

[Assented to 28th November, 1960.]

**BE** it enacted—

1. This Act may be cited as the *Totalisator Agency Board Betting Act, 1960-1973*.

Short title  
and citation.  
Amended by  
No. 64 of  
1973, s.1.

<sup>1</sup> Came into operation on 31st December, 1960. See *Gazette* 23/12/60, p. 4073.

<sup>2</sup> Came into operation on 1st January, 1964.

<sup>3</sup> Sections 1, 2 and 5 deemed to have come into operation on 1/8/66; Sections 3, 4, 6, 7 and 8 came into operation on 11th November, 1966. See *Gazette* 11/11/66, p. 2899.

<sup>4</sup> Came into operation 1st July, 1970. See *Gazette* 26/6/70, p. 1831.

<sup>5</sup> Came into operation 1st November, 1972. See *Gazette* 13/10/72, p. 4069.

<sup>6</sup> Came into operation 1st August, 1973. See *Gazette* 15/6/73, p. 2217.

<sup>7</sup> Came into operation 11th August, 1978. See *Gazette* 11/8/78, p. 2857.



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Commence-  
ment.

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

(2) After the passing of this Act and notwithstanding that a day has not been so fixed—

(a) the Governor may appoint the Board;

(b) the Board may exercise all or any of the powers conferred upon it by this Act which may be necessary or expedient for the purpose of bringing this Act into operation, as validly as if this Act had been proclaimed to come into operation.

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

Interpre-  
tation.  
Amended by  
No. 87 of  
1972, s.3,  
and s.8.

3. In this Act unless the context requires otherwise—

“Association” means the Western Australian Trotting Association constituted under the Western Australian Trotting Association Act, 1946;

“Board” means the body corporate constituted under this Act as the Totalisator Agency Board;

“bookmaker” means any person who (whether on his own account or as employee or agent of another person) carries on the business or vocation of or acts as a bookmaker or turf commission agent, or who gains or endeavours to gain his livelihood wholly or partly by betting or making wagers, but does not include the Board or any of its officers, agents or employees when acting in accordance with this Act for or on behalf of the Board;

“Club” means the body known as The Western Australian Turf Club;

<sup>1</sup> Came into operation on 31st December, 1960. See *Gazette* 23/12/60, p. 4073.

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“member” means a person occupying any of the offices of the Board, including that of chairman;

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

“public place” means any place, used or available for use by the public, and includes a road, street, lane, footpath, thoroughfare, cul de sac, doorway, convenience, reserve or any part of them, and any other place or part of a place used, or available for use, by the public whether of the same kind as, or a different kind from, those specified in this interpretation or the interpretation of the expression, “place”;

“race” means a galloping or trotting horse race or a greyhound race;

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

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

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

“totalisator” means the instrument known as “the totalisator” and includes any other machine, instrument or contrivance of a like nature and conducted on the like principles lawfully operated under the provisions of any Act and also includes any totalisator pool scheme conducted on any race by the Board under this Act for enabling any number of persons to make bets with one another on like principles;

“totalisator agency” means any totalisator agency established and operated in accordance with this Act, and includes

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any premises on which bets may be made on a race on a totalisator through or with the Board or bets made with the Board under this Act;

“totalisator ticket” includes any ticket, card, token or thing—

- (a) entitling, or purporting to entitle, any person to any interest in any division or distribution of any money by means of or in connection with or as the result of the operations of a totalisator; or
- (b) issued by the Board acknowledging that a bet has been made through or with the Board.

Application  
of Act.

4. (1) This Act applies only to such portion or portions of the State as the Governor may by proclamation declare to be a totalisator agency region.<sup>1</sup>

(2) The Governor may on the recommendation of the Minister and the Board, from time to time, and at any time, by proclamation declare any portion or portions of the State to be a totalisator agency region for the purposes of this Act and thereupon this Act shall apply to each totalisator region so proclaimed.

(3) A proclamation made under this section may be cancelled or from time to time varied by a subsequent proclamation.

Establish-  
ment of the  
Board.

5. (1) There shall be constituted under and in accordance with the provisions of this Act, a body having the duties imposed and the powers conferred by this Act.

Name.

(2) The name of the body shall be the Totalisator Agency Board.

<sup>1</sup> See G.G. 26/2/71, pp. 539-40; G.G. 24/3/72, p. 671; and G.G. 2/9/77, p. 3159.

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(3) By that name the Board shall be a body corporate with perpetual succession and an official seal in the form prescribed by its rules and shall be capable in law of suing and being sued and of taking, purchasing, holding, exchanging, leasing and disposing of real and personal property and of doing and suffering all that bodies corporate may do and suffer.

Board a body corporate.

(4) All courts, judges and persons acting judicially shall take judicial notice of the official seal of the Board affixed to a document and shall presume that it was duly affixed.

Judicial notice.

(5) When constituted the Board is for the purposes of any Act a public authority.

Board a public authority.

(6) The exercise of a power or the performance of a function by the Board is not invalidated by reason only of there being a vacancy or vacancies in the membership of the Board.

Vacancy in membership not to invalidate acts of Board.

(7) The appointment of a member is not invalidated and shall not be called in question by reason of a defect or irregularity in or in connection with his nomination.

Defect in nomination of member not to invalidate appointment.

6. (1) The Board shall consist of eight members, one of whom shall be the person from time to time holding the office of manager of the Board, and seven of whom shall be appointed by the Governor and shall be—

Constitution of Board. Amended by No. 103 of 1972, s.2.

- (a) a person appointed upon the nomination of the Minister, who shall be chairman of the Board;
- (b) three persons appointed upon the nomination of the Club one of whom is to be nominated by a conference of Country Racing Associations and who shall be members of the Club; and
- (c) three persons appointed upon the nomination of the Association and who shall be members of the Association one of whom is to be nominated by a conference of Country Trotting Associations.

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Failure to  
nominate  
members.

(2) If at any time the Club or the Association fails to submit to the Minister a nomination of a person or persons for the purposes of this section, within fourteen days after the receipt of a written request from the Minister to do so, the Governor may without the nomination appoint any otherwise eligible person or persons to be a member or members of the Board, and the person or persons so appointed shall, for all purposes, be deemed to be duly appointed.

Member  
eligible for  
re-appoint-  
ment.

(3) Subject to the provisions of this section, a person is eligible for appointment to office of member of the Board notwithstanding that he has previously occupied that office.

Vacation of  
office.

(4) If a member, not being the manager,—

- (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;
- (b) is absent, except on leave granted by the Minister, from four consecutive meetings of the Board;
- (c) becomes permanently incapable of performing his duties;
- (d) becomes a person who would not be qualified to be appointed a member;
- (e) dies or resigns his office by writing under his hand addressed to the Governor and the resignation is accepted;
- (f) is informed in writing by the Governor that, for good cause, his appointment as member is terminated;
- (g) is convicted of any indictable offence;
- (h) otherwise than as a member and in common with other members of an incorporated company consisting of not less than fifty-one persons—
  - (i) becomes concerned or interested, without the approval of the Governor, in any contract or agreement entered into by or on behalf of the Board;

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- (ii) participates or claims to participate in the profit of any such contract or agreement or in any benefit or emolument arising from such a contract or agreement,

the Governor shall, by notice in the *Gazette*, declare that the office of the member is vacant, and thereupon the office shall be deemed to be vacant.

7. (1) Where by the operation of the provisions of section six of this Act an office of member becomes vacant, the vacancy shall be deemed to be an extraordinary vacancy. Filling of vacancies in membership.

(2) On the occurrence of any vacancy in an office of member a qualified person shall, in accordance with the provisions of this Act, be appointed by the Governor to fill the vacancy, and any person appointed to fill an extraordinary vacancy holds office, subject to those provisions, for the remainder of the term of office of the person in whose place he is appointed.

8. (1) Persons nominated in accordance with the provisions of section six of this Act may be appointed by the Governor as deputies to act in the respective offices of member in the absence of the occupants of the offices. Deputies. Amended by No. 103 of 1972, s.3.

(2) The provisions of subsections (2) and (4) of section six of this Act apply in respect to deputies for members as if repeated in this subsection.

(2a) The Minister may from time to time appoint an officer of the Board to be the deputy of the manager in his capacity as member of the Board.

(3) Any person appointed under subsection (1) or subsection (2a) of this section is entitled, in the event of the absence from a meeting of the Board of the member for whom he is the deputy, to attend



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that meeting and, when so attending, shall be deemed to be a member and is authorised to carry out any function which the member for whom he is the deputy if present could exercise, or would be required to carry out under this Act or the Betting Control Act, 1954.

Term of  
office of  
member.  
Amended by  
No. 103 of  
1972, s.4.

9. (1) Subject to subsection (2) of this section, the term of tenure of office of a member, not being the office of member held by the manager, expires by effluxion of time on the expiration of a period of three years commencing on the day specified in the notice of the appointment of the member published in the *Gazette* as the commencing day of that term.

(2) The respective terms of tenure of office of the persons first appointed to office of member expire by effluxion of time—

- (a) in the case of chairman, at the expiration of three years;
- (b) in the case of the three members appointed on the nomination of the Club and in the case of the three members appointed on the nomination of the Association, one member so nominated by the Club and one by the Association at the expiration of one year, two years, and three years respectively, in accordance with subsection (3) of this section,

commencing on the day specified in the notice of their appointment to the office of member published in the *Gazette* as the commencing day of the term.

(3) The Governor shall nominate the two members whose term of tenure of office is to be one year, two years or three years, as the case may be, when appointing them to the office of member.

Remunera-  
tion of  
members.

10. (1) The remuneration payable in respect of the respective offices of the Board is such as the Governor determines and is hereby authorised to determine from time to time.

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(2) Conditions of service applicable to the respective offices of the Board, including travelling allowances, are, subject to the provisions of this Act, such as the Governor determines and is hereby authorised to determine from time to time.

Conditions of service, travelling allowances.

(3) Remuneration payable and conditions of service applicable in respect to deputies appointed to act in the respective offices of the Board, including travelling allowances, are as the Governor determines and is hereby authorised to determine from time to time.

Conditions of service, etc., of deputies.

11. The Minister may grant leave of absence to a member or a deputy for a member upon such terms and conditions as the Minister determines.

Leave of absence.

12. (1) The chairman shall convene the first meeting of the Board to be held at a time and place appointed by him, and the Board shall meet accordingly and shall hold such further meetings as it considers necessary for the efficient conduct of its affairs.

Meetings of Board.  
Amended by No. 103 of 1972, s.5.

(2) At a meeting of the Board—

- (a) five members form a quorum;
- (b) the chairman or, in his absence, the person appointed his deputy, shall preside;
- (c) all questions shall be decided by a majority of votes of the members present and voting; and
- (d) the chairman, or the person appointed his deputy when presiding, has a deliberative vote, and in the event of an equality of votes, has a casting vote.

13. (1) The Board may, in relation to any particular matter or class of matters or to a particular place, by writing under its seal, delegate to any number of members as a sub-committee, or where it is inconvenient or impracticable for a sub-committee to act, then to any member, all or any of its powers and functions under this Act or the Betting Control Act, 1954, except this power of delegation, so that the delegated powers and

Delegation.

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functions may be exercised by the delegate with respect to the matter or class of matters, or to the place, specified in the instrument of delegation.

(2) A delegation under this section is revocable at will and no delegation shall prevent the exercise of a power or function by the Board.

Exemption  
from  
personal  
liability.

14. A person who is or has been a member, deputy for a member, delegate or employee of the Board, is not personally liable for anything done or omitted 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, on the Board by this Act or the Betting Control Act, 1954.

Rules of  
Board.

15. The Board may from time to time make rules, not inconsistent with any regulations made under this Act, for all or any of the following purposes, namely—

- (a) regulating its proceedings and the conduct of its meetings;
- (b) providing for the custody of its property and the form and use of its official seal;
- (c) prescribing the duties of its officers, agents and employees;
- (d) such purposes as may be deemed necessary or expedient for the operation of this Act or for carrying out the functions of the Board.

Manager,  
secretary and  
other officers  
of the  
Board.

16. (1) The Board—

- (a) may appoint and at any time remove a manager and a secretary and such other officers as the Board considers necessary for the purposes of this Act; and
- (b) may employ such temporary or casual employees as it thinks fit for those purposes.

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(2) The manager and secretary and other officers and employees respectively hold their office or employment upon such terms and subject to such conditions and are entitled to receive such remuneration for their services as the Board in each case from time to time determines.

17. For the purposes of this Act the Board may—

(a) establish in any totalisator agency region offices and totalisator agencies in such number and at such places therein as the Minister approves at or in which bets may be made in accordance with this Act on any race—

Establishment of offices and agencies. Amended by No. 87 of 1972, s.8.

(i) on a totalisator through or with the Board; or

(ii) with the Board;

(b) purchase or take on lease or license any land, building or premises and may erect buildings and may equip, fit and furnish any buildings or premises for and as such offices and totalisator agencies;

(c) enter into any agency contracts or other contracts or arrangements whatsoever and may carry them into effect; and

(d) exercise such other powers and perform such other functions as may be prescribed by rule or regulation.

18. (1) All expenses of or connected with or arising out of—

(a) the establishment of the Board and its offices and totalisator agencies and the carrying out of the matters referred to in section seventeen of this Act; and

Expenses of establishment of Board and its operations. Amended by No. 28 of 1966, s. 8.

(b) the conduct of the operations of the Board under this Act,

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shall until such time as the Board is able to meet them in full from its funds, be borne by—

- (c) an unsecured loan to the Board of a sum of one hundred thousand dollars free of interest by the Club and the Association; and
- (d) such other moneys as the Board may borrow under the provisions of section nineteen of this Act.

(2) The loan referred to in paragraph (c) of subsection (1) of this section shall be made by the Club and the Association in equal shares or such other shares as the Club and the Association agree upon.

(3) The Club and the Association shall pay to the Board the sum of one hundred thousand dollars referred to in subsection (1) of this section within fourteen days of the Board requesting them in writing so to do.

(4) The Board shall repay the loan referred to in paragraph (c) of subsection (1) of this section at the expiration of a period of ten years from the date of the making of the loan or such lesser period as the Board, the Club and the Association, with the approval of the Treasurer, agree upon.

**Borrowing  
powers of  
Board.  
Amended by  
No. 28 of  
1966, s. 8.**

19. (1) With the prior approval of the Treasurer of the State, the Board may borrow moneys, whether by way of mortgage, debentures, bonds, overdraft or otherwise, and may mortgage or charge any of its real or personal property, whether present or future, in such manner as the Treasurer thinks fit.

(2) The Treasurer may from time to time, upon and subject to such terms and conditions as he thinks fit, and without further authority than this section, guarantee on behalf of the Crown in right of the State, the due redemption of the principal moneys so borrowed and the due payment of all interest thereon, but this subsection does not apply to the loan made by the Club and the Association referred to in subsection (2) of section eighteen of this Act.

(3) The liability of the Treasurer at any one time under any guarantee or guarantees given by him under this Act shall not exceed in the aggregate the sum of seven hundred thousand dollars inclusive of interest and any other charges.

(4) The Treasurer shall cause any money required for fulfilling any guarantee given by him under this Act, to be paid out of the Public Account, which account is hereby to the necessary extent appropriated accordingly, and shall cause any sums received or recovered by the Treasurer from the Board or otherwise in respect of a sum so paid by the Treasurer to be paid into the Public Account.

20. (1) Notwithstanding anything contained in any other Act or law to the contrary, it shall be lawful in accordance with this Act—

- (a) for bets by way of wagering or gaming in respect of races to be lodged with and received by or on behalf of the Board for transmission of the bets by the Board to a totalisator on a race course within the State;
- (b) for the Board to retain any such bets and not so transmit them, where the bets are so lodged or so received after the prescribed closing time for the acceptance of the bets on the race in respect of which the bets are made or if in the opinion of the Board it is impracticable for the Board to so transmit the bets;
- (ba) for novelty bets by way of wagering or gaming in respect of such races as are selected by the Board, being races conducted on race courses in the State or on such race courses outside the State as are prescribed to be lodged with and received by or on behalf of the Board and placed by the Board in a totalisator pool conducted by it on those races in accordance with this Act;
- (c) for bets by way of wagering or gaming in respect of such races conducted on such race courses outside the State as are prescribed,

Authorising  
off course  
totalisator  
bets and bets  
with Board in  
accordance  
with this  
Act.

Amended by  
No. 26 of 1963,  
s.2; No. 28 of  
1966, s.3;  
No. 87 of  
1972, s.4 and  
s.8; No. 64 of  
1973, s.3.

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to be made with and received by or on behalf of the Board, or placed by the Board in a totalisator pool conducted by it on any such race in accordance with this Act; and

“This Act”  
includes  
regulations.  
See No. 30  
of 1918.

- (d) for dividends to be paid by the Board in respect of those bets,

at totalisator agencies situated elsewhere than at race courses but with the prior approval of the racing club having the control and management of a race course, totalisator agencies may be situated on that race course for the purpose of bets being made and received or placed and dividends paid in respect of those bets as provided in paragraphs (c) and (d) of this subsection.

(2) The mere fact of any persons betting on any totalisator through the Board or conducted by the Board or betting with the Board pursuant to this Act—

- (a) shall not constitute the betting an offence, whether at common law or by any Act, either by those persons or by the Board or any of its officers or agents or any of its employees; and
- (b) shall not be a ground for any office or totalisator agency of the Board or any part thereof, being deemed or declared, whether at common law or by any Act, 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 law.

Exclusion  
and saving  
of provisions  
of Criminal  
Code and  
Police Act.

(3) A person shall not be prosecuted or convicted, or be liable to prosecution or conviction, or subject to penal consequence under the provisions of The Criminal Code, 1913, or of the Police Act, 1892, by reason of anything done by him under and in accordance with this Act; but subject to this Act, the provisions of that Code and of that Act, relating to common gaming houses and common betting houses, or unlawful betting, are of full force and effect, and as affected by this Act, the Code and the Act are amended and may be cited in accordance with the Schedule to this Act.

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(4) Nothing in this section shall be construed as precluding the Board from determining not to accept bets at all or any of its totalisator agencies on all or any races held at any race meeting on which bets could be lawfully made by virtue of this section.

Schedule.

(5) In this section "novelty bet" means a bet of the prescribed kind.

21. (1) Subject to subsection (2) of this section every bet made through the Board to be transmitted to a totalisator conducted with respect to a race to be run in the State which is received by the Board before the prescribed closing time for the acceptance of such bet on that race and which is so transmitted, is received by the Board as agent for the racing club conducting the totalisator.

Totalisator  
Investments  
made  
through  
Board to  
form part  
of moneys  
invested on  
race course  
totalisator.  
Amended by  
No. 87 of  
1972, s.8.

(2) The Board may so receive and so transmit such bets or itself make and receive bets and not so transmit them at such times and on such races run in the State and outside the State as may be prescribed by the regulations.

22. (1) All moneys payable by way of dividends in respect of any bet referred to in paragraph (a) or (b) of subsection (1) of section twenty of this Act, shall be paid by the Board to persons entitled thereto in accordance with the respective amounts of the dividends declared by the totalisator conducted on the race course on the race on which the bet was made, notwithstanding that all such bets received by the Board have not formed part of the moneys on which the dividend was so declared.

Payment of  
dividends by  
the Board.  
Amended by  
No. 26 of  
1963, s.3;  
No. 28 of  
1966, s.4;  
No. 87 of  
1972, s.8;  
No. 64 of  
1973, s.4

(2) All moneys payable by way of dividends in respect of any bet referred to in paragraph (c) of subsection (1) of section twenty shall be paid by the Board—

(a) in accordance with the respective amounts of the dividends declared by the totalisator conducted on the race course outside the State on the race on which the bet was made



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or in accordance with such percentage or amount more or less of the respective amounts of the dividends so declared as is prescribed; or

- (b) in accordance with the dividend declared by the Board on any race on which the bet was made where the bet is placed by the Board in a totalisator pool scheme which the Board is hereby authorised to conduct and operate on any race outside the State in accordance with the regulations.

(3) All moneys payable by way of dividend in respect of any bet referred to in paragraph (ba) of subsection (1) of section twenty of this Act that is placed by the Board in a totalisator pool which the Board is hereby authorised to conduct and operate, shall be paid by the Board in accordance with the regulations.

Dividends on moneys transmitted by Board to race clubs. Amended by No. 51 of 1963, s.3; No. 28 of 1966, s.8; No. 103 of 1972, s.6.

23. (1) All moneys payable by way of dividends in respect of bets made on a totalisator on a race course through the Board and transmitted to the totalisator by the Board, shall be paid by the race clubs concerned to the Board and shall, subject to this Act, be paid or credited by the Board as agent for the race clubs to persons entitled thereto.

(2) The race club shall pay to the Board in respect of those dividends, the amount of the fractional part of five cents which has not been paid by the racing club by way of such dividends, and the amount shall form part of the general funds of the Board.

(3) All moneys payable by way of dividends and refunds, whether by the Board or a racing club through the Board, which are unclaimed for seven months by any person entitled thereto, other than moneys which are credited by the Board to a credit account established with it under this Act, shall be paid by the Board to the Treasurer of the State, and shall be carried to and form part of the Consolidated Revenue Fund and thereafter the owner of the money has no enforceable claim in respect thereof.

(4) [*Repealed by No. 103 of 1972, s.6.*]

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24. Where the amount of any bet is received by the Board as agent for a racing club, the Board shall deduct therefrom by way of commission such portion of that amount as equals—

Percentage of off course bets to belong to Board.  
Repealed and re-enacted by No. 87 of 1972, s.5.

- (a) except as provided in paragraph (b) of this subsection—fifteen per centum thereof;
- (b) where the totalisator conducted by or on behalf of the racing club is conducted on the system whereby all winning bets for a win or a place are deducted before the totalisator commission is deducted—twenty per centum of that amount in the case of a losing bet made for a win and twenty-five per centum of that amount in the case of a losing bet made for a place,

and any amount so deducted by the Board shall be deemed for all purposes to belong to the Board and to form part of the general funds of the Board.

25. The Board shall, in accordance with this Act—

Totalisator Board betting tax.

- (a) make at such times and in such manner as may be prescribed true and full returns of all amounts of money received by it in respect of bets made in accordance with this Act;
- (b) pay tax on the whole of those moneys at the rate imposed by section two of the Totalisator Agency Board Betting Tax Act, 1960.

26. For the purposes of meeting capital expenditure incurred by the Board in the establishment of totalisator agencies pursuant to this Act, including the repayment of moneys borrowed by the Board, and of meeting depreciation charges, the cost of improvements, repairs, maintenance, equipment, furniture, fixtures and fittings for or in respect of any land, buildings or premises purchased or taken on lease or license by the Board under section seventeen of this Act, any losses incurred by it in the

Board to set aside percentage of bets to meet operation costs, etc.  
Amended by No. 39 of 1962, s. 2.

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operation of the agencies, and for the establishment of reserve funds for any of those purposes, the Board shall pay into a separate bank account at the beginning of each month such amount as equals one and one-quarter per centum of the total amount of all bets made by or through the Board in accordance with this Act, during the last preceding month.

Commissioner  
of State  
Taxation  
to pay  
percentage of  
totalisator  
duty to  
Board.  
Amended by  
No. 21 of  
1970, s.56.

27. The Commissioner of State Taxation appointed under the Public Service Act, 1904, is hereby authorised to pay and shall so pay to the Board, at such times as are agreed upon between the Commissioner and the Board, the amount of the duty from time to time received by him under subsection (4) of section three of the Totalisator Duty Act, 1905, and the amount so paid shall form part of the general funds of the Board.

Allocation of  
the funds of  
the Board.  
Amended by  
No. 28 of  
1966, s.5;  
No. 87 of  
1972, s.6 and  
s.8; No.64 of  
1973, s.5.

28. (1) The Board after paying—

- (a) to any race club the amount transmitted by the Board in accordance with this Act to any totalisator operated by the race club;
- (b) all moneys payable by way of dividends in respect of bets made through or with the Board;
- (c) the amount of the betting tax imposed by section twenty-five of this Act;
- (d) all other outgoings and expenses of the Board including the payment of the amount of the percentage into the separate bank account as referred to in section twenty-six of this Act; and
- (e) to the Greyhound Racing Control Board the total of the amounts of commission retained by the Board in respect of bets referred to in paragraph (ba) of subsection (1) of section twenty of this Act and of commission and duty received by the Board under section twenty-four of this Act and subsection (4)

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of section three of the Totalisator Duty Act, 1905, in respect of greyhound races after deducting all amounts of the kind referred to in paragraphs (c) and (d) of this subsection applicable to greyhound races, shall pay the balance of its funds then remaining from time to time to the Club and the Association by periodical or other payments as agreed between the Board, the Club and the Association and in default of agreement, as the Minister directs.

(2) The amount to be so paid to the Club by the Board from the balance of its funds so remaining as provided in subsection (1) of this section shall be such amount as is equal to sixty per centum thereof.

(3) The amount to be so paid to the Association by the Board from the balance of its funds so remaining as provided in subsection (1) of this section shall be such amount as is equal to forty per centum thereof.

(4) The Club shall, from any sum received by it from the Board pursuant to subsection (2) of this section—

- (a) distribute as soon as practicable twenty per centum thereof among the racing clubs registered with it conducting races outside of the Metropolitan Area in such manner that each of those clubs receives such part of that percentage as bears to the whole of that percentage the ratio which the amount of the stakes paid by the club during the last preceding racing year bears to the total amount of stakes paid by all of those clubs during that year;
- (b) retain eighty per centum thereof for its own use.

(5) The Association shall, from any sum received by it from the Board pursuant to subsection (3) of this section—

- (a) distribute as soon as practicable twenty per centum thereof to racing clubs registered with it conducting races outside the Metropolitan Area in such manner that each of

those clubs receives such part of that percentage as bears to the whole of that percentage the ratio which the amount of stakes paid by the club during the last preceding racing years bears to the total amount of stakes paid by all of those clubs during that year;

- (b) with respect to eighty per centum thereof, share that percentage so that the Association receives sixty-two and a half per centum of that percentage and The Fremantle Trotting Club, seventeen and a half per centum of that percentage.

Exemption  
of Board  
from stamp  
duties.

29. Notwithstanding the provisions of any law relating to stamp duties, no stamp duty shall be payable upon any totalisator ticket or receipt given or cheque drawn by the Board.

Bets  
transmitted  
by Board to  
totalisator  
not subject  
to certain  
Acts.

30. The amount of any money transmitted by the Board to a totalisator on a race course as agent for a racing club is not subject to the provisions of the Totalisator Duty Act, 1905, except subsection (2) of section three of that Act, or of the Totalisator Regulation Act, 1911.

Board to  
have first  
right to  
registered  
premises.  
Amended by  
No. 28 of 1966,  
s. 8.

31. (1) Except with the prior approval in writing of the Board, a person shall not—

- (a) without first notifying the Board in manner prescribed; and
- (b) until forty-two days after the area in which the premises are situated has been declared a totalisator agency region, or such lesser period as the Board advises the person in writing—
- (i) sell or purchase any estate in any premises that were registered premises within the meaning of the expression “registered premises” in

the Betting Control Act, 1954 immediately prior to the declaration of the area as a totalisator region;

- (ii) give or take an option for the purchase of any estate in such premises;
- (iii) let or take on lease or license such premises;
- (iv) execute a transfer or assignment of any lease of such premises;
- (v) otherwise dispose of, or acquire, any estate in such premises.

(2) Where a transaction is entered into in contravention of this section, the transaction is void and in addition any person who contravenes this section commits an offence.

Penalty: Four hundred dollars.

(3) Notwithstanding the provisions of this section, the Minister may, where he is of opinion that the circumstances of the particular case justify it, exempt any person from the provisions of this section.

32. (1) Where any portion of the State is declared under this Act to be a totalisator agency region—

- (a) every premises that were, immediately prior to the declaration, registered premises within the meaning of the expression "registered premises" in the Betting Control Act, 1954, shall by force of this section cease to be such; and
- (b) every license issued under the Betting Control Act, 1954 which entitles the holder to carry on the business of a bookmaker in person or by his employee at such registered premises and which is current immediately prior to the declaration, is by force of this section cancelled,

Registration of licensed premises and licenses for certain bookmakers cancelled. Amended by No. 21 of 1970, s.57.

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and no compensation is payable by the Crown in right of the State or by any person in respect of any loss which may be suffered directly or indirectly as a result of the operation of this section.

(2) Nothing in this Act shall operate so as to prejudice any bet which the holder of a license had lawfully made with any person prior to the date of the declaration referred to in subsection (1) of this section.

(3) The Commissioner of State Taxation appointed under the Public Service Act, 1904, shall refund to the holder of the license and the holder of the certificate of registration of the premises, an amount which bears to the amount of the license fee or the registration fee, the same proportion which the number of days for which the license or registration ceases to be in operation during the period for which they were respectively granted, bears to three hundred and sixty-six.

Provisions relating to bets through Board.  
Amended by No. 39 of 1962, s.3; No. 65 of 1970, s.2; No. 87 of 1972, s.8.

33. The following provisions apply in relation to betting through the Board:—

(a) the Board, or any of its officers, agents or employees or any employee of an agent of the Board shall not accept a bet unless made—

(i) by the deposit of the amount of the bet in cash at a totalisator agency; or

(ii) by letter sent through the post or by telegram or telephone message received at a totalisator agency,

in accordance with the provisions of this Act;

(b) the Board, or any of its officers, agents or employees or any employee of an agent of the Board shall not accept any bet that is made by letter or by telegram or telephone message on any race unless—

(i) the person making the bet has established with the Board in accordance with this Act, a credit account sufficient to pay the amount

"This Act" includes regulations, rules, etc. See Act No. 30 of 1918, s. 4.

of the bet and has maintained the account up to the time of making the bet and the bet is charged against that account; or

(ii) alternatively, in the case of a bet made by letter or telegram, the amount of the bet is forwarded through the post with the letter or payment thereof is arranged by telegram in accordance with this Act;

(c) a dividend payable in respect of any bet made in accordance with this Act is payable in accordance with this Act at the totalisator agency where the bet was received on the day on which the race, whereon the bet was made, is run.

34. A credit account may be established with the Board for any amount of not less than two dollars and may in accordance with this Act be maintained by the payments of further moneys or the credit of winnings to that account.

Credit  
accounts.  
Amended  
by No. 28 of  
1966, s. 8.

35. The minimum amount of any bet that may be made pursuant to this Act shall be such as is prescribed, being an amount of not less than twenty-five cents.

Minimum  
amount  
of a bet.  
Amended by  
No. 28 of  
1966, s. 8.

36. (1) Members of the Board, the person occupying the office of Commissioner of State Taxation and persons authorised by the Board, the Commissioner or the Minister have at all times access, without charge, to and authority to inspect race courses, totalisators, totalisator agencies and other premises of the Board, and any person refusing such access or otherwise hindering, delaying or obstructing a member, the Commissioner, or person so authorised, in the carrying out of his duties, commits an offence.

Power of  
members of  
the Board,  
Commis-  
sioner of  
State  
Taxation and  
other persons  
to enter  
race courses  
and  
totalisator  
agencies, etc.  
Amended by  
No. 28 of  
1966, s. 8; No.  
21 of 1970,  
s. 58.

Penalty: One hundred dollars.



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(2) The person first referred to in subsection (1) of this section shall have such further powers and perform such further duties as may be prescribed.

Offences in respect of conducting totalisator agencies. Amended by No. 28 of 1966, s. 8.

**37. A person who—**

- (a) having the management or control of any totalisator agency authorises or permits or suffers the premises of that agency to be constituted or used, or any act or thing to be done or omitted in or in relation to that agency, in contravention of or failure of compliance with 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 is prohibited by or does not conform to 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 Board; or
- (d) purchases any such ticket from any person not authorised to sell the same,

commits an offence.

Penalty: For a first offence two hundred dollars or imprisonment for three months; for a second offence four hundred dollars or imprisonment for six months; for any subsequent offence imprisonment for not less than six months and not more than twelve months without the option of a pecuniary penalty.

Penalty for acting as totalisator agents. Amended by No. 28 of 1966, s. 8.

**38. Subject to the provisions of section forty of this Act, a person who for fee, commission, reward, share or interest of any kind, whether of the same kind as, or a different kind from, those here specified, or upon any understanding or agreement, whether expressed or implied, for such fee, commission, reward, share or interest receives from any other person any money for the purpose of placing,**

investing or depositing the same or any part thereof in any totalisator commits an offence.

Penalty: For a first offence two hundred dollars; for any subsequent offence imprisonment for six months without the option of a pecuniary penalty.

39. Subject to the provisions of section forty of this Act, any officer, agent or servant of a racing club using a totalisator or any 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 for officers of racing clubs and employees of totalisators accepting instructions as to investments on totalisators.  
Amended by No. 28 of 1966, s. 8.

Penalty: One hundred dollars.

40. (1) The provisions of sections thirty-eight and thirty-nine of this Act do not apply—

Non-application of ss. 38 and 39 to Board's officers, etc.

(a) to the Board, any manager, secretary, officer, employee or agent of the Board, or to any employee of the agent in respect of any bet made through or with the Board 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 Board.

(2) Notwithstanding the provisions of any other Act it shall be lawful—

(a) to communicate information from a race course to a totalisator agency for or in connection with the payment or crediting of dividends to persons making those bets through the Board; or

(b) to broadcast information as to the amount of dividends payable on any event on which the bets have been made through or with the Board, after those dividends have been declared on the totalisator or by the Board.

Penalty for accepting bets after closing time.  
Amended by No. 28 of 1966, s.8; No. 37 of 1972, s.8.

41. Any manager, secretary, officer, employee or agent of the Board or any employee of the agent, who receives or permits to be received any bets in respect of any race after the time notified by the race club conducting the race, for the starting of that race, commits an offence.

Penalty: Four hundred dollars.

Prohibition of betting with minors, intoxicated persons, etc.  
Amended by No. 26 of 1966, s.3; No. 65 of 1970, s.3; No. 46 of 1972, s.6.

42. No manager, secretary, officer, employee or agent of the Board or employee of an agent of the Board shall knowingly—

- (a) accept a bet from, or pay moneys, or deliver a totalisator ticket, to any person apparently under the age of eighteen 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 a person under the age of eighteen years, or a person apparently under the influence of intoxicating liquor to enter in or remain on a totalisator agency, while it is open for the lodging and receiving of bets, except in the case of a person under the age of eighteen years entering the premises for the purpose of delivery of mail or goods or effecting repairs or otherwise carrying out his duties;
- (d) employ in any totalisator agency any person who has not attained the age of eighteen years;
- (e) use or permit the use in any totalisator agency, of any appliance capable of being used for receiving broadcast programmes or television or reproducing or increasing the volume of sound, unless the volume of

sound emitted by the appliance is so controlled that it does not constitute an annoyance to persons outside the totalisator agency.

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

43. No person under the age of eighteen years shall—

- (a) enter or remain in any totalisator agency while it is open for the lodging or receiving of bets except for the purpose of delivery of mail or goods, or effecting repairs, or otherwise carrying out his duties, but this exception does not authorise employment contrary to the provisions of paragraph (d) of section forty-two of this Act;
- (b) make a bet with or through the Board; or
- (c) request any other person to place such a bet for him.

Offences by minors.  
Amended by No. 28 of 1966, s.8; No. 46 of 1972, s.6.

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

44. No person shall knowingly—

- (a) loiter in front of any totalisator agency while it is open for the lodging or receiving of bets;
- (b) take a person under the age of eighteen years into any totalisator agency unless for a purpose referred to in paragraph (a) of section forty-three of this Act;
- (c) take intoxicating liquor or any noxious substance into a totalisator agency;

Offences.  
Amended by No. 28 of 1966, s.8; No. 46 of 1972, s.6.

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- (d) place a bet with or through the Board for a person under the age of eighteen years, or for a person prohibited from entering a totalisator agency premises.

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

Unlawful  
betting.  
Amended by  
No. 39 of 1962,  
s.4; No. 28 of  
1966, s.6; No.  
87 of 1972, s.8.

45. (1) Subject to the provisions of subsection (2) of this section, any person who—

- (a) carries on business as a bookmaker or acts as a bookmaker; or
- (b) bets with a bookmaker, other than a bookmaker hereinafter referred to in this section, on the result of any race,

at any time or at any place, commits an offence.

Penalty: For a first offence a fine not less than one thousand dollars nor exceeding two thousand dollars or imprisonment for two months, but where the offence is the latter of the two offences constituted by this subsection the penalty for a first offence in respect of that latter offence is a fine not less than two hundred dollars nor exceeding one thousand dollars or imprisonment for one month; for a second offence imprisonment for not less than three months nor more than six months; for a third or any subsequent offence imprisonment for not less than six months nor more than twelve months, and the provisions of paragraph (a) of subsection (2) of section forty-six of this Act apply to any penalty imposed under this subsection as though it were repeated in this subsection.

(2) Subsection (1) of this section does not apply to any bookmaker who is the holder of a license under the Betting Control Act, 1954 which entitles him to carry on the business of a bookmaker in person upon a race course and who carries on that business and bets in accordance with that Act, or to any person who bets with any such bookmaker in accordance with that Act.

(3) In this section the term "bets" includes negotiating bets, receiving or paying money in connection with bets and settling bets on or in connection with the result of any race.

(4) A complaint for an offence against this section committed after the commencement of this subsection, may be made at any time within five years from the date the offence was committed.

46. (1) No person shall be in or upon any public place for the purpose of betting except by means of a totalisator duly authorised to operate under any Act or for the purpose of betting in accordance with this Act.

Being in  
public place  
for betting.  
Amended by  
No. 39 of 1962,  
s. 5; No. 28  
of 1966, s. 7.

Penalty: For a first offence a fine not less than one thousand dollars nor exceeding two thousand dollars or imprisonment for two months, but if the person who commits the offence is not a book-maker the penalty for a first offence is a fine not less than two hundred dollars nor exceeding one thousand dollars or imprisonment for one month; for a second offence imprisonment for not less than three months nor more than six months; for a third or any subsequent offence imprisonment for not less than six months nor more than twelve months.

(2) Notwithstanding the provisions of the Justices Act, 1902, or any other enactment, no court has power—

- (a) to impose on any person guilty of a first, second or third or subsequent offence under this section, any penalty lower than the minimum fixed by this section; or
- (b) to impose a fine in lieu of imprisonment under this section for any such second or third or subsequent offence.

(3) In this section the term "betting" without limiting the meaning thereof includes negotiating bets, receiving or paying money in connection with bets and settling bets, but does not include the negotiating of bets, the receiving or paying money

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in connection with bets and the settling of bets made—

- (a) on a race course by means of a totalisator; or
- (b) with a bookmaker who is the holder of a current license under the Betting Control Act, 1954, which entitles him to carry on the business of a bookmaker in person upon a race course and who carries on that business and bets in accordance with that Act; or
- (c) in accordance with this Act.

Search  
warrant.  
Added by  
No. 15 of 1961,  
s. 2.

Cf. s. 25  
No. 30 of  
1918.

**46A.** (1) If it appears to a Justice on complaint made on oath before him that there are reasonable grounds for suspecting that unlawful betting is or is about to be carried on in or upon any place or public place, he may give to any member of the police force a warrant in the form of the Second Schedule to this Act.

(2) A warrant so given authorises the member of the police force therein named, with such assistance as may be necessary,—

- (a) to enter into and upon and search the place or public place named in the warrant at any time during the day or night and to open and break open if necessary and search all things found therein or thereupon;
- (b) to use force if necessary in making entry whether by breaking open doors or otherwise;
- (c) to search all persons found therein or thereupon;
- (d) to arrest and bring before a stipendiary magistrate or two justices all persons found therein or thereupon;

- (e) to seize all betting material found therein or thereupon or upon the persons referred to in paragraph (c) of this subsection that may reasonably be supposed to have been used or designed for use in connection with or in relation to such unlawful betting; and
- (f) to detain such betting material until the owner or owners thereof appear before a stipendiary magistrate or two justices to claim the betting material and satisfy the magistrate or justices how and for what use or purposes it was intended.

(3) The stipendiary magistrate or justices may confiscate all or any of the betting material as he or they deem fit, if—

- (a) the owner or owners thereof do not appear before the magistrate or justices within twenty-one days after the seizure of the betting material; or
- (b) if he or they do so appear, and do not show to the satisfaction of the magistrate or justices after due examination that the betting material 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.

(4) In this section and in section forty-six B of this Act—

- (a) “unlawful betting” means any contravention of or failure to observe any provision of section forty-five or forty-six of this Act; and
- (b) “betting material” means—
  - (i) lists, cards, books, tickets, vouchers and papers and other documents whether they are of the same kind as or a different kind from, those previously specified;



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- (ii) money, machines and devices; and
- (iii) tables and blackboards.

(5) No female person shall be searched under the 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.

Betting material  
*prima facie*  
evidence of  
offence.  
Added by  
No. 15 of  
1961, s.2.

**46B.** If, on the hearing of any complaint for an offence against section forty-five or forty-six of this Act, the Court is of opinion that any betting material that has to its satisfaction been proved to have been found in any place or public place wherein it was suspected that unlawful betting was carried on and entered under a warrant given under section forty-six A of this Act and to have been so found in circumstances that, in the mind of the Court, raises a reasonable suspicion that the betting material was used or designed for use in contravention of the purposes and provisions of the firstmentioned sections or either of them, such finding shall be deemed *prima facie* evidence of the commission by the accused person of the offence charged against him in the complaint.

Loitering in  
street.  
Amended by  
No. 28 of 1966,  
s. 8.

**47.** If any member of the police force of the State has reasonable grounds for suspecting that any 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 not refuse or neglect to move on when requested by that member of the Police Force so to do whether such standing or loitering causes or tends to cause any obstruction to traffic or not in any street or public place.

Penalty: Forty dollars or imprisonment for two months.

Removal.  
Amended by  
No. 28 of 1966,  
s.8; No. 37 of  
1972, s.8.

**48.** (1) If any member of the police force of the State has reasonable grounds for suspecting that on any place upon which any sport of a kind usually attended by the public is then being carried on or conducted, or in any other place, any person is guilty of, or has on that day been guilty of, betting

on any race or races contrary to the provisions of any Act, that member of the police force may, without warrant, arrest that person and remove him from that place.

(2) For the purposes of this section the term, "betting" has the same meaning as that term is given by section forty-six of this Act.

(3) If a person suspected of having committed an offence against this Act is arrested under the provisions of this section, a report of the fact and circumstances shall forthwith be made to the Attorney General.

(4) No person who has been so removed from any such place shall, during the day on which he was so removed, re-enter or be again upon that place, or any place contiguous thereto.

Penalty: One hundred dollars.

(5) No member of the police force of the State who has acted *bona fide* in the intended exercise of the powers conferred on him by subsection (1) of this section is liable to any proceedings, civil or criminal, in consequence of his having so acted.

49. Any person who is in or near to any place, whether a public place or not, for the purpose of giving any warning to any person of the presence or approach of any member of the police force of the State or for the purpose of preventing the detection of any offence against section forty-five or forty-six of this Act commits an offence.

Penalty for persons warning offenders of the approach of members of the police force.  
Amended by No. 39 of 1962, s. 6; No. 28 of 1966, s. 8.

Penalty: For a first offence a fine not less than five hundred dollars nor exceeding one thousand dollars; for a second offence imprisonment for not less than three months nor more than six months; for a third or any subsequent offence imprisonment for not less than six months nor more than twelve months.

Evidence as to offences.

50. If on the hearing of any complaint for an offence against section forty-five or forty-six of this Act the court is of opinion that any money or thing which has to its satisfaction been proved to have been given to, or received, or paid by the accused person, or given to, or received, or paid by any person or persons on his behalf, 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 the purposes and provisions of this Act, or any of them, such giving, receiving, or paying shall be deemed *prima facie* evidence of the commission by the accused person of the offence charged against him in the complaint.

Reasonable suspicion sufficient to set up a *prima facie* case.

51. (1) If on the hearing of any complaint against a person for an offence against section forty-five or forty-six of this Act, the evidence of the prosecution is such as to raise in the mind of the person hearing the complaint a reasonable suspicion that the person is guilty of the offence charged against him in the complaint, that evidence shall be deemed to be *prima facie* evidence that the person is guilty of that offence.

(2) The provisions of this section do not limit the effect of any provision of section fifty of this Act, and the provisions of that section do not limit the effect of any provisions of this section.

Certain persons not accomplices and evidence of accomplices.  
Added by No. 65 of 1970, s.4.

51A. (1) A member of the police force who, and a person who, at the request of such a member, makes a bet is deemed not to be an accomplice and is not guilty of an offence where a complaint, arising out of the making of that bet, is made against another person; and the evidence of the member of the police force or the person who made the bet at his request is deemed, on the hearing of the complaint, not to be the evidence of an accomplice.

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

(3) Nothing in this section shall limit the effect of any provision of section fifty or fifty-one of this Act.

52. (1) If—

- (a) any person is convicted for an offence under section forty-five or forty-six of this Act; and
- (b) the offence took place on premises in respect of which a licence has been granted under the Liquor Act, 1970,

Unlawful  
betting on  
licensed  
premises.  
Amended by  
No. 39 of 1962,  
s. 7; No. 28 of  
1966, s. 8.

the person holding or entitled to exercise the licence commits an offence.

Penalty: For a first offence a fine not less than one hundred dollars nor exceeding two hundred dollars; for any subsequent offence a fine not less than two hundred dollars nor exceeding four hundred dollars.

(2) In any proceedings against a person under this section, any statement on the conviction for the offence under section forty-five or forty-six of this Act, 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 this section to show—

- (a) that the accused person or, if the accused person was not on the premises at the time the offence against section forty-five or forty-six 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.

Power of  
police to  
remove  
persons  
betting from  
licensed  
premises.  
Amended by  
No. 28 of 1966,  
s. 8.

53. (1) If any member of the police force of the State has reasonable grounds for suspecting that any person whom he finds on any premises in respect of which a licence has been granted under the Liquor Act, 1970, has at any time on that day on which he finds him been guilty of betting or offering to bet contrary to the provisions of this Act, on those premises, or that that person is on those premises for the purpose of so betting, that member of the police force may without warrant arrest that person and remove him from the premises or cause him to be so arrested or removed.

(2) If any person who has been so removed from any such premises re-enters or is again upon those premises during that day on which he was so removed, he commits an offence.

Penalty: One hundred dollars.

(3) No member of that police force who has acted *bona fide* in the intended exercise of the powers conferred on him by subsection (1) of this section, and no person acting under the instructions of, or for the purpose of assisting the member, is liable to any proceedings, civil or criminal, in consequence of his having so acted.

Offences  
generally,  
general  
penalty.  
Amended by  
No. 28 of 1966,  
s. 8.

54. (1) A person who does not do a thing, which by or under this Act he is required or directed to do, and a person who does or attempts to do a thing, which by or under this Act he is prohibited from doing, commits an offence against this Act.

(2) A person who commits an offence against this Act is liable to the penalty expressly mentioned as the punishment for the offence, but where a penalty is not expressly mentioned, is liable—

- (a) where the offence is not a continuing offence, to a maximum penalty of two hundred dollars; and
- (b) where the offence is a continuing offence, to a penalty of four dollars for each day during which the offence continues.

55. (1) Where any person has contracted with any racing club to operate a totalisator at race meetings to be conducted by the racing club, and any remuneration payable to that person under the contract is to be calculated as a part or percentage of the moneys received from bets on the totalisator, or of any amount to be deducted or retained by the racing club from those moneys pursuant to the Totalisator Duty Act, 1905, or is otherwise to be ascertained by reference to those moneys or to that amount, no amounts transmitted to the totalisator by the Board, as agent for the racing club, shall be taken into account for the purpose of calculating or ascertaining the amount of that remuneration, unless it is expressly provided in the contract that the amounts so transmitted are to be taken into account for that purpose.

Effect of bets transmitted by Board to totalisators on existing contracts for working totalisators.

(2) Except with the mutual consent of the parties thereto, no contract referred to in subsection (1) of this section shall be deemed to be varied or terminated by reason only of the transmission to the totalisator of such bets as are referred to in that subsection.

(3) This section applies only to contracts in force on the coming into operation of this Act.

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

Annual report of Board.

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exercise and performance by the Board of its powers, functions and duties under this Act during the twelve months ended on the preceeding thirty-first day of July.

(2) The Minister shall lay the report of the Board before each House of Parliament within six sitting days of that House after the receipt of the report by the Minister.

Regulations.  
Amended by  
No. 28 of 1966,  
s.8; No. 21 of  
1970, s.59; No.  
87 of 1972, s.7  
and s.8.

57. (1) The Board may, with the approval of the Governor, make regulations for giving effect to the operation of this Act and without affecting the generality of the foregoing may by the regulations—

- (a) control the admission of persons to any totalisator agency and exclude from the totalisator agency any specified class of persons, either absolutely or subject to such conditions as are prescribed in the regulations, and provide that any person who commits a breach of the regulations made under this paragraph may be removed from the totalisator agency by any member, officer, agent or servant of the Board or by an inspector or member of the police force of the State;
- (b) define the functions and powers of the Board additional to those expressly mentioned in this Act and the powers of the members, the Commissioner of State Taxation, and persons authorised under section thirty-six of this Act;
- (c) provide for the establishment, maintenance, conduct and operation of totalisator agencies and generally regulate and control the lodging and receipt of bets to be transmitted to a totalisator and bets with the Board at totalisator agencies and totalisator pools conducted by the Board and further provide for the establishment of totalisator pools by the Board and the mode of conducting and operating such pools by the Board;

- (d) provide for the receiving at totalisator agencies of bets in respect of races conducted on racecourses within the State and bets in respect of races conducted on racecourses outside the State, and the manner in which the investments and bets may be made and the times at which and conditions upon or subject to which the investments and bets may be made and received;
- (e) provide for the transmission of particulars of the investments to officers, agents or employees of racing clubs at racecourses for registration on totalisators;
- (f) provide for the payment at or from totalisator agencies of dividends payable in respect of bets made on a totalisator through the Board and bets made with the Board, and the times at which and the manner in which the dividends may be paid;
- (g) provide for the method of accounting as between racing clubs and totalisator agencies in respect of bets received and transmitted or received by the Board, and in respect of dividends;
- (h) such other matters as may be necessary for the proper operation and control of totalisator agencies;
- (i) provide for the imposing as a penalty for the breach of a regulation so made a sum not exceeding two hundred dollars.

(2) Any rules or regulations made in relation to a totalisator on a racecourse, so far as they are applicable, apply in relation to bets made through the Board on that totalisator as if the bets were made directly into the totalisator, and regulations or rules made under his 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 Board and transmitted to a totalisator.



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(3) Where and to the extent that there is inconsistency between—

- (a) the provisions of regulations having effect under this Act; and
- (b) the provisions of any rules made by the Board having effect under this Act or by-laws having effect under The Western Australian Turf Club Act, 1892, or under the Western Australian Trotting Association Act, 1946, or rules having effect under Part III of the Greyhound Racing Control Act, 1972, or by-laws, rules or regulations made by a racing club under the Associations Incorporation Act, 1895, or any other Act,

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

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SCHEDULE.

PART I.

*Criminal Code.*

S. 20 (3).

The Criminal Code.  
Reprinted in Vol. 8 of the Reprinted Acts, approved for reprint 29th June, 1955.

1. In this Part of this Schedule "Code" means The Criminal Code as contained in the Schedule to the Criminal Code Act, 1913, Act No. 28 of 1913 and as amended by Acts Nos. 32 of 1918, 51 of 1932, 15 of 1942, 40 of 1945, 27 to 1952, 55 of 1953, 20 of 1954, 63 and 73 of 1954, 11, 43 and 74 of 1956 and 50 of 1957.

S. 211 amended.

2. Subsection (2) of section two hundred and eleven of the Code is amended by—

- (a) deleting the words, "and to" in the second last line; and
- (b) adding after the figures "1954" at the end of the subsection, the passage, "and to the Totalisator Agency Board Betting Act, 1960".

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PART II

S. 20 (3).

*Police Act, 1892.*

1. (1) In this Part of this Schedule the Police Act, 1892-1959,

Short title and citation. Reprinted in Vol. 6 of the Reprinted Acts as approved for reprint 23rd March, 1953.

Act Victoriae No. 27, 1892, as reprinted with amendments to and including Act No. 15 of 1952 incorporated pursuant to the Amendments Incorporation Act, 1938, and as further amended by Acts Nos. 6 and 25 of 1954, 8 of 1955, 2 of 1956, 40 of 1958 and 10 of 1959,

is referred to as the principal Act.

(2) The principal Act as amended by this Act may be cited as the Police Act, 1892-1960.

S. 83A amended.

2. Section eighty-three A of the principal Act is amended—

- (a) by adding after the section number, "83A", the subsection designation, "(1)";
- (b) by deleting the word, "and" in the third line;
- (c) by adding after the figures, "1954" in the last line the passage, "and the Totalisator Agency Board Betting Act, 1960"; and
- (d) by adding a subsection as follows—

(2) Without prejudice to the operation of subsection (1) of this section, the provisions of sections eighty-four G and eighty-four H of this Act do not apply to the Totalisator Agency Board established under the Totalisator Agency Board Betting Act, 1960.

SECOND SCHEDULE.

S. 46A.

Form of Warrant.

Second Schedule added by No. 15 of 1961, s.3.

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 forty-six A of the

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Totalisator Agency Board Betting Act, 1960, as amended, is being or is about to be carried on upon a certain place or public place, to wit,

This is therefore to authorise and require 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 or break open if necessary and search all things found therein or thereupon and to search all persons found therein or thereupon subject to subsection (5) of the said section forty-six A and if necessary to use force in making such entry into or upon the place or public place, whether by breaking open doors or otherwise and to arrest and bring before a Stipendiary Magistrate or two Justices of the Peace all such persons as may be found therein or thereupon and seize all 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 so found, to be dealt with according to law: And for so doing this shall be your Warrant.

Given under my hand at \_\_\_\_\_ in Western  
Australia this \_\_\_\_\_ day of  
19 .

