

Western Australia

## **Totalisator Agency Board Betting Act 1960**

---

As at 01 Jan 2004

Version 05-c0-03

Extract from [www.slp.wa.gov.au](http://www.slp.wa.gov.au), see that website for further information



# Totalisator Agency Board Betting Act 1960

---

## CONTENTS

---

### Part 1 — Preliminary

1.	Short title	2
2.	Commencement	2
3.	Interpretation	2

### Part 2 — The TAB

4.	The TAB	5
4A.	TAB to act in accordance with policy instruments	6
5.	Establishment of the TAB	6
6.	The Board of the TAB	7
10.	Remuneration etc.	10
11.	Leave of absence	10
13.	Delegation	10
14.	Exemption from personal liability	11
15.	Rules of TAB	11
16.	Manager, secretary and other officers of the TAB	12
17.	Establishment of offices and agencies	13
18.	Expenses of establishment of TAB and its operations	13
19.	Borrowing powers of TAB	15

### Part 3 — Provisions as to accountability

#### Division 1 — Strategic development plans

19AA.	Draft strategic plan to be submitted to the Minister	16
19AB.	Transitional provision	16
19AC.	Matters to be included in strategic development plan	16

Contents

---

19AD.	Strategic development plan to be agreed if possible	17
19AE.	Minister's powers in relation to draft strategic development plan	17
19AF.	Strategic development plan pending agreement	18
19AG.	Minister's agreement to draft strategic development plan	18
19AH.	Modifications of strategic development plan	18
19AI.	Concurrence of Treasurer	19
	<b>Division 2 — Statement of corporate intent</b>	
19AJ.	Draft statement of corporate intent to be submitted to Minister	19
19AK.	Transitional provision	19
19AL.	Matters to be included in statement of corporate intent	19
19AM.	Statement of corporate intent to be agreed if possible	20
19AN.	Minister's powers in relation to draft statement of corporate intent	20
19AO.	Statement of corporate intent pending agreement	21
19AP.	Minister's agreement to draft statement of corporate intent	22
19AQ.	Modifications of statement of corporate intent	22
19AR.	Concurrence of Treasurer	22
	<b>Division 3 — Provision of information</b>	
19AS.	Minister to have access to information	23

**Part 4 — Totalisator betting**

19A.	Totalisator betting on prescribed sporting events	25
20.	Authorising off course totalisator bets and bets with TAB in accordance with Act	25
21.	Totalisator investments made through TAB to form part of moneys invested on race course totalisator	28
21A.	Bets transmitted from racing club to TAB	28
22.	Payment of dividends by the TAB	28
23.	Dividends on moneys transmitted by TAB to race clubs	30
23A.	Unclaimed dividends, fixed odds winnings and refunds	30

**Part 5 — Fixed odds betting**

24.	Fixed odds betting on racing and other events	32
24A.	Fixed odds betting generally	32
24B.	Payment of fixed odds winnings by the TAB	33
24D.	Rules for fixed odds betting	34

### **Part 6 — General financial provisions**

25.	TAB betting tax	35
26.	Reserve accounts	35
26A.	Supplementary pool schemes	36
27.	Combined pool schemes	36
27A.	Arrangements with other persons	37
28.	Allocation of TAB's funds	38
29.	Exemption of TAB from stamp duties	40

### **Part 7 — Miscellaneous**

33.	Provisions relating to bets through TAB	41
34.	Credit accounts	42
35.	Minimum amount of a bet	42
36.	Power of members of the TAB, Commissioner of State Revenue, and other persons to enter race courses and totalisator agencies, etc.	42
40.	Communication and broadcasting of information	43
55.	Effect of bets transmitted by TAB to totalisators on existing contracts for working totalisators	44
56.	Application of <i>Financial Administration and Audit Act 1985</i>	44
56A.	Supplementary provision as to laying documents before Parliament	45
56B.	Immunity from certain claims	45
57.	Regulations	46

### **Schedule 1**

1.	Tenure of office	48
2.	Disclosure of interests	48
3.	General procedure concerning meetings	48
4.	Presiding member	49
5.	Quorum	49
6.	Voting	49
7.	Sub-committees	49

Contents

---

8.	Resolution may be passed without meeting	49
----	--	----

**Notes**

	Compilation table	50
--	-------------------	----

Western Australia

## **Totalisator Agency Board Betting Act 1960**

**An Act to constitute a Totalisator Agency Board, to authorise the provision and operation of betting services on totalisators through the TAB and for totalisator and other betting with the TAB and for incidental and other purposes.**

*[Long title amended by No. 11 of 1992 s. 4; No. 63 of 1995 s. 16; No. 40 of 1999 s. 4.]*

## **Part 1 — Preliminary**

*[Heading inserted by No. 40 of 1999 s. 5.]*

### **1. Short title**

This Act may be cited as the *Totalisator Agency Board Betting Act 1960*<sup>1</sup>.

### **2. Commencement**

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

*[Section 2 amended by No. 125 of 1987 s. 4.]*

### **3. Interpretation**

In this Act, unless the context requires otherwise —

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

“**Betting Control Board**” means the Betting Control Board established under section 6 of the *Betting Control Act 1954*;

“**chairperson**” means the chairperson of the Board;

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

“**fixed odds bet**” means a bet where a fixed amount that will be won if the bet is successful is determined before the bet is accepted;

“**function**” includes powers, duties and authorities;

“**member**” means a person who is a member of the Board;

“**novelty bet**” means a bet of a kind prescribed as a novelty bet and known by a prescribed designation;

“**perform**”, in relation to functions, includes the exercise of a power or authority;



“**public servant**” means a person who is a public service officer within the meaning of the *Public Sector Management Act 1994*;

“**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;

“**racing year**” means the period of 12 months commencing on 1 August and ending on the immediately succeeding 31 July;

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

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

“**Sports Betting Promotion Account**” means the account established under section 28A(2)(c);

“**the Board**” means the governing body of the TAB provided for by section 6;

“**the TAB**” means the body constituted under section 5;

“**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 or sporting event by the TAB 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 any premises on which bets may be made on a race or event through or with the TAB;

**s. 3**

---

**“Totalisator Agency Board Sports Betting Account”** means the account established under section 28A(2)(d);

**“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 TAB acknowledging that a bet has been made through or with the TAB;

**“WAGRA”** means the Western Australian Greyhound Racing Authority established under the *Western Australian Greyhound Racing Authority Act 1981*.

*[Section 3<sup>9</sup> amended by No. 87 of 1972 s. 3 and 8; No. 125 of 1987 s. 5; No. 66 of 1988 s. 12; No. 11 of 1992 s. 5; No. 32 of 1994 s. 19; No. 63 of 1995 s. 4 and 17; No. 10 of 1998 s. 67; No. 23 of 1998 s. 20; No. 40 of 1999 s. 6; No. 35 of 2003 s. 26.]*

## **Part 2 — The TAB**

*[Heading inserted by No. 40 of 1999 s. 7.]*

### **4. The TAB**

- (1) This Act —
  - (a) is to apply in all portions of the State, whether or not ever proclaimed as a totalisator agency region; and
  - (b) binds the Crown.
- (2) The functions of the TAB are —
  - (a) to carry on —
    - (i) principally, the business of operating an off-course totalisator betting service on racing and certain sporting events;
    - (ia) the business of setting, accepting and making fixed odds bets in relation to racing and certain events, including sporting events; and
    - (ii) any other business considered by the Board to be conducive to the success of or incidental to the business of totalisator or fixed odds betting,  
  
but so that such other business is not conducted to the detriment of the business of totalisator or fixed odds betting or in a manner which confers any unfair commercial advantage; and
  - (b) to invest, re-invest or otherwise use and employ funds for the time being held by the TAB in such manner as the Board thinks fit.
- (3) The TAB is to —
  - (a) perform its functions in accordance with prudent commercial principles; and
  - (b) use reasonable endeavours to derive a profit.

**s. 4A**

---

- (3a) If there is any inconsistency between the duty imposed by subsection (3) and a direction given by the Minister under this Act, the direction prevails to the extent of the inconsistency.
- (4) The TAB may perform any of its functions within the State or elsewhere.

*[Section 4 inserted by No. 11 of 1992 s. 6; amended by No. 40 of 1999 s. 8.]*

**4A.      TAB to act in accordance with policy instruments**

The TAB shall perform its functions in accordance with its strategic development plan and its statement of corporate intent as existing from time to time.

*[Section 4A inserted by No. 40 of 1999 s. 9.]*

**5.      Establishment of the TAB**

- (1) There shall be constituted under and in accordance with the provisions of this Act, a body having the functions conferred by this Act.
- (2) The corporate name of the body corporate established under this section prior to the coming into operation of the provisions introduced by Part 2 of the *Acts Amendment and Repeal (Betting) Act 1992*<sup>1</sup> was, and thereafter shall still be, the Totalisator Agency Board, but that body may use, and operate under, the designation “the TAB” or, if so approved by the Minister, one or more other trading names, not being its corporate name.
- (3) The TAB shall be a body corporate with perpetual succession and an official seal in the form prescribed by its rules, in its corporate name is capable of suing or being sued, for the purposes of this Act may —
  - (a) acquire, lease, hold, manage, develop, or dispose of real and personal property;

- (b) subject to the approval of the Minister, subscribe for, invest in or otherwise acquire, or deal in or dispose of, shares in, or debentures or other securities of, a corporation or other business undertaking;
- (c) associate with other persons in the conduct of any business undertaking; and
- (d) do and suffer all that bodies corporate generally may lawfully do or suffer,

but the Minister may give to the TAB directions in writing of a general character as to the exercise of its functions and the TAB shall give effect to any such direction.

- (3a) The text of any direction received by the TAB under subsection (3) shall be included in the annual report submitted by the accountable authority of the TAB under section 66 of the *Financial Administration and Audit Act 1985*.
- (3b) Subsection (3) has effect subject to the *Statutory Corporations (Liability of Directors) Act 1996*.
- (4) All courts, judges and persons acting judicially shall take judicial notice of the official seal of the TAB affixed to a document and shall presume that it was duly affixed.
- (5) The TAB —
  - (a) is an agency of the Crown;
  - (b) except as otherwise prescribed, enjoys the status, immunities and privileges of the Crown; and
  - (c) is, for the purposes of any Act, a public authority.

*[Section 5 amended by No. 125 of 1987 s. 6; No. 5 of 1989 s. 19; No. 11 of 1992 s. 7; No. 41 of 1996 s. 3.]*

## **6. The Board of the TAB**

- (1) The governing body of the TAB shall be the Board.

**s. 6**

---

- (2) On and after the coming into operation of section 5 of the *Acts Amendment (Racing and Betting Legislation) Act 1995*<sup>1</sup> the Board shall comprise 7 members appointed by the Minister as people who have —
- (a) expertise relevant to the functions of the TAB and its operations, including expertise in management, finance, business or commerce; or
  - (b) knowledge of, and experience in, the racing industry.
- (3) The Minister is to appoint one of the members to be chairperson of the Board, and another to be the deputy of the chairperson to perform the functions of the chairperson when the chairperson is unable to do so or when the office of chairperson is vacant.
- (4) If a member, —
- (a) is an insolvent under administration, as that expression is defined in the *Corporations Act 2001* of the Commonwealth;
  - (b) is absent, except on leave granted by the Minister, from 4 consecutive meetings of the Board;
  - (c) is, in the opinion of the Minister, unable, through illness or absence from the State, to perform the functions of the office;
  - [(d) deleted]*
  - (e) dies or resigns his or her office by writing under his or her hand addressed to the Minister and the resignation is accepted;
  - (f) is informed in writing by the Minister that, for good cause, his or her appointment as member is terminated as at a date therein specified;
  - (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 51 persons —
  - (i) becomes concerned or interested, without the approval of the Minister, in any contract or agreement entered into by or on behalf of the Board;
  - (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 Minister 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.

- (5) Subject to subsection (4), a person appointed as a member of the Board shall hold office for such term not exceeding 3 years as is specified in the instrument of appointment, commencing on the date therein specified, and notice of the appointment of the member shall be published for public information in the *Gazette*.
- (6) The performance of a function of the TAB by the Board is not invalidated by reason of there being a vacancy or vacancies in the membership of the Board.
- (7) The appointment of a member is not invalidated and is not to be called in question by reason of there being a defect or irregularity in or in connection with the member's nomination.
- (8) The Minister may approve a person to act as the deputy of a member, other than the chairperson, and at any meeting of the Board at which a member is not present the deputy of that member may exercise the powers and perform the duties of the member.

**s. 10**

---

- (9) No act or omission of a person acting as a deputy under this section shall be questioned on the ground that the occasion for so acting had not arisen or had ceased.

- (10) Schedule 1 has effect with respect to the constitution and proceedings of the Board and of its sub-committees.

*[Section 6 amended by No. 103 of 1972 s. 2; No. 125 of 1987 s. 7; No. 11 of 1992 s. 8; No. 63 of 1995 s. 5; No. 10 of 2001 s. 195.]*

*[7. Repealed by No. 63 of 1995 s. 6.]*

*[8. Repealed by No. 63 of 1995 s. 7.]*

*[9. Repealed by No. 125 of 1988 s. 10.]*

**10. Remuneration etc.**

A member, and a person approved to act as the deputy of a member, shall be paid such remuneration and travelling or other allowances as are determined by the Minister, on the recommendation of the Minister for Public Sector Management, from time to time.

*[Section 10 inserted by No. 63 of 1995 s. 8.]*

**11. Leave of absence**

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.

*[12. Repealed by No. 63 of 1995 s. 9.]*

**13. Delegation**

- (1) The Board may, in relation to any particular matter or class of matters or to a particular place, by writing under the seal of the TAB, 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 or the manager, secretary or other officer of the TAB, all or any of the functions of the TAB under this Act, except this power of delegation, so that the delegated powers and 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 performance of a function of the TAB by the Board.

*[Section 13 amended by No. 11 of 1992 s. 9; No. 63 of 1995 s. 10; No. 13 of 2002 s. 31<sup>2</sup>.]*

#### **14. Exemption from personal liability**

- (1) 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*.
- (2) Subsection (1) has effect subject to the *Statutory Corporations (Liability of Directors) Act 1996*.

*[Section 14 amended by No. 41 of 1996 s. 3.]*

*[14A. Repealed by No. 40 of 1999 s. 10.]*

#### **15. Rules of TAB**

The TAB 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 the Board's proceedings and the conduct of its meetings;
- (b) providing for the custody of its property and the form and use of its official seal;

**s. 16**

---

- (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 TAB.

*[Section 15 amended by No. 11 of 1992 s. 11; No. 40 of 1999 s. 11.]*

**16.     Manager, secretary and other officers of the TAB**

- (1) The TAB —
  - (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 the Board thinks fit for those purposes.
- (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 TAB in each case from time to time determines.
- (3) Notwithstanding anything in this section, to the extent that there is in the case of a person who is appointed under subsection (1)(a) to be a manager, secretary or other officer and who is a member of the Senior Executive Service within the meaning of the *Public Sector Management Act 1994* an inconsistency between this Act and that Act that Act shall prevail.

*[Section 16 amended by No. 113 of 1987 s. 30; No. 11 of 1992 s. 12; No. 63 of 1995 s. 11.]*

**17. Establishment of offices and agencies**

- (1) For the purposes of this Act the Board may —
- (a) establish offices and totalisator agencies in such number and at such places (including in licensed premises) therein as the Minister approves at or in which bets may be made on any race or sporting event —
    - (i) on a totalisator through or with the TAB; or
    - (ii) with the TAB;
  - (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) perform such other functions, in relation to such offices or agencies, contracts and arrangements, as may be prescribed by rule or regulation.
- (2) The Minister shall not approve the establishment of a totalisator agency in any licensed premises unless the portion of those premises which is to be used as a totalisator agency is clearly defined.

*[Section 17 amended by No. 87 of 1972 s. 8; No. 125 of 1987 s. 12; No. 11 of 1992 s. 13; No. 73 of 1994 s. 4; No. 63 of 1995 s. 18.]*

**18. Expenses of establishment of TAB and its operations**

- (1) All expenses of or connected with or arising out of —
- (a) the establishment of the TAB and its offices and totalisator agencies and the carrying out of the matters referred to in section 17; and
  - (b) the conduct of the operations of the TAB under this Act or under the *Betting Control Act 1954*,

**s. 18**

---

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

- (c) an unsecured loan to the TAB of a sum of \$100 000 free of interest by the Club and the Association; and
  - (d) such other moneys as the TAB may borrow under the provisions of section 19.
- (2) The loan referred to in subsection (1)(c) 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 TAB the sum of \$100 000 referred to in subsection (1) within 14 days of the TAB requesting them in writing so to do.
  - (4) The TAB shall repay the loan referred to in subsection (1)(c) at the expiration of a period of 10 years from the date of the making of the loan or such lesser period as the TAB, the Club and the Association, with the approval of the Treasurer, agree upon.
  - (5) The TAB may have an account or accounts at any bank, and money received by and expenditure of the TAB is to be paid to or from such an account.
  - (6) In subsection (5) “**bank**” has the meaning assigned to it by the *Financial Administration and Audit Act 1985* for the purposes of section 21 of that Act.
  - (7) The TAB shall, in the prescribed manner, pay to the Betting Control Board established under the *Betting Control Act 1954* an annual fee, to meet the costs of that Board in regulating TAB operations, of such an amount as may be —
    - (a) determined by the Betting Control Board; and
    - (b) approved by the Minister.

*[Section 18 amended by No. 28 of 1966 s. 8; No. 11 of 1992 s. 14 and 15; No. 63 of 1995 s. 13.]*

**19. Borrowing powers of TAB**

- (1) With the prior approval of the Treasurer of the State, the TAB 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 section 18(2).
- (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 \$700 000 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 charged to the Consolidated Fund, which is hereby to the necessary extent appropriated accordingly, and shall cause any sums received or recovered by the Treasurer from the TAB or otherwise in respect of a sum so charged by the Treasurer to be credited to the Consolidated Fund.

*[Section 19 amended by No. 28 of 1966 s. 8; No. 98 of 1985 s. 3; No. 11 of 1992 s. 15; No. 6 of 1993 s. 11; No. 49 of 1996 s. 64.]*

### **Part 3 — Provisions as to accountability**

*[Heading inserted by No. 40 of 1999 s. 12.]*

#### **Division 1 — Strategic development plans**

*[Heading inserted by No. 40 of 1999 s. 12.]*

##### **19AA. Draft strategic plan to be submitted to the Minister**

- (1) The Board shall in each year prepare, and submit to the Minister for the Minister's agreement, a draft strategic development plan for the TAB.
- (2) Each draft strategic development plan is to be submitted not later than 2 months before the start of the next financial year.

*[Section 19AA inserted by No. 40 of 1999 s. 12.]*

##### **19AB. Transitional provision**

The first strategic development plan for the TAB is to be in respect of the next full financial year after the commencement of this Part<sup>3</sup>.

*[Section 19AB inserted by No. 40 of 1999 s. 12.]*

##### **19AC. Matters to be included in strategic development plan**

- (1) A strategic development plan shall set out economic and financial objectives and operational targets and how those objectives and targets will be achieved.
- (2) The matters that are to be considered in the preparation of a strategic development plan include —
  - (a) competitive strategies, pricing of products, productivity levels, financial requirements, capital expenditure and personnel requirements; and
  - (b) any other matters that the Minister and the Board agree should be considered.

- (3) A strategic development plan shall cover a forecast period of 5 years or a lesser period agreed with the Minister.

*[Section 19AC inserted by No. 40 of 1999 s. 12.]*

**19AD. Strategic development plan to be agreed if possible**

The Board and the Minister shall try to reach agreement on a draft strategic development plan as soon as possible, and in any event not later than one month before the start of the financial year to which the strategic development plan applies.

*[Section 19AD inserted by No. 40 of 1999 s. 12.]*

**19AE. Minister's powers in relation to draft strategic development plan**

- (1) The Minister may return a draft strategic development plan to the Board and request it to —
- (a) consider or further consider any matter and deal with the matter in the draft plan; and
  - (b) revise the draft plan in the light of its consideration or further consideration.
- (2) The Board shall comply with the request as soon as is practicable.
- (3) If the Board and the Minister have not reached agreement on a draft strategic development plan by one month before the start of the financial year to which the strategic development plan applies, the Minister may, by written notice, direct the Board —
- (a) to take specified steps in relation to the draft plan; or
  - (b) to make specified modifications to the draft plan.
- (4) The Board shall comply with a direction under subsection (3) as soon as is practicable.
- (5) The Minister shall, within 14 days after a direction is given, cause a copy of it to be laid before each House of Parliament or dealt with in accordance with section 56A.

*[Section 19AE inserted by No. 40 of 1999 s. 12.]*

**19AF. Strategic development plan pending agreement**

- (1) If the Board and the Minister have not agreed to a draft strategic development plan before the start of a financial year, the latest draft plan is to be the strategic development plan for the TAB until a draft strategic development plan is agreed to under section 19AG.
- (2) In subsection (1) —  
**“latest draft plan”** means the draft strategic development plan submitted, or last submitted, by the Board to the Minister before the start of the financial year with any modifications made by the Board, whether before or after that time, at the direction of the Minister.

*[Section 19AF inserted by No. 40 of 1999 s. 12.]*

**19AG. Minister’s agreement to draft strategic development plan**

When the Board and the Minister reach agreement on a draft strategic development plan, it becomes the strategic development plan for the relevant financial year or the remainder of the year, as the case may be.

*[Section 19AG inserted by No. 40 of 1999 s. 12.]*

**19AH. Modifications of strategic development plan**

- (1) A strategic development plan may be modified by the Board with the agreement of the Minister.
- (2) The Minister may, by written notice, direct the Board to modify the strategic development plan and the Board shall comply with any such direction.
- (3) Before giving a direction under subsection (2), the Minister shall consult with the Board and take its views into account.
- (4) The Minister shall within 14 days after a direction is given cause a copy of it to be laid before each House of Parliament or dealt with in accordance with section 56A.

*[Section 19AH inserted by No. 40 of 1999 s. 12.]*



**19AI. Concurrence of Treasurer**

The Minister is not to —

- (a) agree to a draft strategic development plan under section 19AG; or
- (b) agree to or direct any modification of a strategic development plan under section 19AH,

except with the concurrence of the Treasurer.

*[Section 19AI inserted by No. 40 of 1999 s. 12.]*

**Division 2 — Statement of corporate intent**

*[Heading inserted by No. 40 of 1999 s. 12.]*

**19AJ. Draft statement of corporate intent to be submitted to Minister**

- (1) The Board shall in each year prepare, and submit to the Minister for the Minister's agreement, a draft statement of corporate intent for the TAB.
- (2) Each draft statement of corporate intent is to be submitted not later than 2 months before the start of the next financial year.

*[Section 19AJ inserted by No. 40 of 1999 s. 12.]*

**19AK. Transitional provision**

The first statement of corporate intent for the TAB is to be in respect of the next full financial year after the commencement of this Part<sup>3</sup>.

*[Section 19AK inserted by No. 40 of 1999 s. 12.]*

**19AL. Matters to be included in statement of corporate intent**

- (1) A statement of corporate intent shall be consistent with the strategic development plan under Division 1.

- (2) The statement of corporate intent for the TAB shall specify —
- (a) an outline of objectives;
  - (b) an outline of main undertakings during the relevant financial year;
  - (c) an outline of the nature and scope of the functions proposed to be performed during the relevant financial year;
  - (d) the performance targets and other measures by which performances may be judged in relation to objectives for the relevant financial year;
  - (e) accounting policies that apply to the preparation of accounts;
  - (f) the type of information to be given to the Minister, including information to be given in the annual report; and
  - (g) such other matters as may be agreed by the Minister and the Board.
- (3) The Minister may exempt the TAB from including any matter, or any aspect of a matter, mentioned in subsection (2) in the statement of corporate intent.

*[Section 19AL inserted by No. 40 of 1999 s. 12.]*

**19AM. Statement of corporate intent to be agreed if possible**

The Board and the Minister shall try to reach agreement on a draft statement of corporate intent as soon as possible and, in any event not later than the start of the financial year to which that statement of corporate intent applies.

*[Section 19AM inserted by No. 40 of 1999 s. 12.]*

**19AN. Minister's powers in relation to draft statement of corporate intent**

- (1) The Minister may return a draft statement of corporate intent to the Board and request it to —

- (a) consider or further consider any matter and deal with the matter in the draft statement; and
  - (b) revise the draft statement in the light of its consideration or further consideration.
- (2) The Board shall comply with the request as soon as is practicable.
- (3) If the Board and the Minister have not reached agreement on a draft statement of corporate intent by one month before the start of the financial year to which that statement of corporate intent applies, the Minister may, by written notice, direct the Board —
- (a) to take specified steps in relation to the draft statement; or
  - (b) to make specified modifications to the draft statement.
- (4) The Board shall comply with a direction under subsection (3) as soon as is practicable.
- (5) The Minister shall within 14 days after a direction is given cause a copy of it to be laid before each House of Parliament or dealt with in accordance with section 56A.

*[Section 19AN inserted by No. 40 of 1999 s. 12.]*

**19AO. Statement of corporate intent pending agreement**

- (1) If the Board and the Minister have not agreed to a draft statement of corporate intent before the start of a financial year, the latest draft statement is to be the statement of corporate intent for the TAB until a draft statement of corporate intent is agreed to under section 19AP.
- (2) In subsection (1) —
- “latest draft statement”** means the draft statement of corporate intent submitted, or last submitted, by the Board to the Minister before the start of the financial year with any modifications made by the Board, whether before or after that time, at the direction of the Minister.

*[Section 19AO inserted by No. 40 of 1999 s. 12.]*

**19AP. Minister's agreement to draft statement of corporate intent**

- (1) When the Board and the Minister reach agreement on a draft statement of corporate intent, it becomes the statement of corporate intent for the relevant financial year or the remainder of the year, as the case may be.
- (2) The Minister shall within 14 days after agreeing to a draft statement of corporate intent under subsection (1) cause a copy of it to be laid before each House of Parliament or dealt with in accordance with section 56A.
- (3) The Board may request the Minister to delete from the copy of a statement of corporate intent that is to be laid before Parliament a matter that is of a commercially sensitive nature, and the Minister may, despite subsection (2), comply with the request.

*[Section 19AP inserted by No. 40 of 1999 s. 12.]*

**19AQ. Modifications of statement of corporate intent**

- (1) A statement of corporate intent may be modified by the Board with the agreement of the Minister.
- (2) The Minister may, by written notice, direct the Board to modify the statement of corporate intent, and the Board shall comply with any such direction.
- (3) Before giving the direction, the Minister shall consult with the Board and take its views into account.
- (4) The Minister shall within 14 days after a direction is given cause a copy of it to be laid before each House of Parliament or dealt with in accordance with section 56A.

*[Section 19AQ inserted by No. 40 of 1999 s. 12.]*

**19AR. Concurrence of Treasurer**

The Minister is not to —

- (a) agree to a draft statement of corporate intent under section 19AP; or
- (b) agree to or direct any modification of a statement of corporate intent under section 19AQ,

except with the concurrence of the Treasurer.

*[Section 19AR inserted by No. 40 of 1999 s. 12.]*

### **Division 3 — Provision of information**

*[Heading inserted by No. 40 of 1999 s. 12.]*

#### **19AS. Minister to have access to information**

- (1) The Minister is entitled —
  - (a) to have information in the possession of the TAB; and
  - (b) where the information is in or on a document, to have, and make and retain copies of, that document.
- (2) For the purposes of subsection (1) the Minister may —
  - (a) request the TAB 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 TAB to obtain the information and furnish it to the Minister.
- (3) The TAB and the Board, respectively, shall comply with a request under subsection (2) and make staff and facilities available to the Minister for the purposes of paragraph (c) of that subsection.
- (4) Where the TAB or the Board furnishes or gives access to information to the Minister, it shall advise the Minister whether or not, in its opinion, the public disclosure of the information would adversely affect the commercial interests of the TAB.
- (5) In this section —

**Totalisator Agency Board Betting Act 1960**

**Part 3** Provisions as to accountability

**Division 3** Provision of information

**s. 19AS**

---

**“document”** includes any tape, disc or other device or medium on which information is recorded or stored mechanically, photographically, electronically or otherwise;

**“information”** means information specified, or of a description specified, by the Minister that relates to the functions of the TAB.

*[Section 19AS inserted by No. 40 of 1999 s. 12.]*

## **Part 4 — Totalisator betting**

*[Heading inserted by No. 40 of 1999 s. 13.]*

### **19A. Totalisator betting on prescribed sporting events**

- (1) The TAB may conduct totalisator betting on the results of —
  - (a) any cricket match or series of cricket matches selected by the TAB;
  - (b) any match or series of matches selected by the TAB from Australian Rules Football fixtures; or
  - (c) any other prescribed sporting event.
- (1a) Despite subsection (1), the TAB may not conduct totalisator betting on a particular match or sporting event if, in the opinion of the Betting Control Board —
  - (a) it would not be in the public interest to conduct totalisator betting on that match or sporting event; or
  - (b) the match or sporting event itself would not be in the public interest.
- (2) Totalisator betting authorised under this section shall be conducted in accordance with the regulations.

*[Section 19A inserted by No. 125 of 1987 s. 13; amended by No. 11 of 1992 s. 15; No. 40 of 1999 s. 14.]*

### **20. Authorising off course totalisator bets and bets with TAB in accordance with Act**

- (1) Notwithstanding anything contained in any other Act or law to the contrary, it shall be lawful —
  - (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 TAB for transmission of the bets by the TAB to a totalisator on a race course within the State;
  - (aa) for novelty bets by way of wagering or gaming in respect of such races as are selected by the TAB, being

**s. 20**

---

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 TAB —

- (i) for transmission of the bets by the TAB to a totalisator on a race course within the State; or
- (ii) to be placed by the TAB in a totalisator pool conducted by it on those races,  
at the Board's discretion;
- (b) for the TAB 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 TAB it is impracticable for the TAB to so transmit the bets;
- (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, to be made with and received by or on behalf of the TAB, or placed by the TAB in a totalisator pool conducted by it on any such race;
- (ca) for bets by way of wagering or gaming, including novelty bets, in respect of such races as are selected by the TAB, 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 TAB to be transmitted by the TAB to a totalisator operated outside the State by a statutory body, or by a body corporate prescribed for the purposes of section 27, that is authorised to accept such bets; and
- (d) for dividends to be paid by the TAB 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.

- (1a) Bets in respect of sporting events selected by the TAB may be lodged with and received by or on behalf of the TAB in accordance with this Act, and dividends shall be payable by the TAB in respect of those bets, notwithstanding any other law.
- (2) The mere fact of any persons betting on any totalisator through the TAB or conducted by the TAB or betting with the TAB 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 TAB 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 TAB 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.
- (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 any written law by reason only of anything done by him under and in accordance with this Act.
- (4) Nothing in this section shall be construed as precluding the TAB from determining not to accept bets at all or any of its totalisator agencies on all or any races held at any race meeting or on any sporting event on which bets could be lawfully made by virtue of this section.

*[Section 20 amended by No. 26 of 1963 s. 2; No. 28 of 1966 s. 3; No. 87 of 1972 s. 4 and 8; No. 64 of 1973 s. 3; No. 125 of 1987 s. 14; No. 66 of 1988 s. 13; No. 11 of 1992 s. 15; No. 24 of 1994 s. 4; No. 63 of 1995 s. 19.]*

**s. 21**

---

**21. Totalisator investments made through TAB to form part of moneys invested on race course totalisator**

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

*[Section 21 amended by No. 87 of 1972 s. 8; No. 11 of 1992 s. 15.]*

**21A. Bets transmitted from racing club to TAB**

Every bet received and transmitted by a racing club to a totalisator pool conducted by the TAB shall be received and dealt with by the TAB on behalf of that club in accordance with the regulations.

*[Section 21A inserted by No. 66 of 1988 s. 14; amended by No. 11 of 1992 s. 15.]*

**22. Payment of dividends by the TAB**

- (1) All moneys payable by way of dividends in respect of any bet referred to in section 20(1)(a), (aa)(i) or (b), shall be paid by the TAB 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 TAB have not formed part of the moneys on which the dividend was so declared.

- (2) All moneys payable by way of dividends in respect of any bet referred to in section 20(1)(c) shall be paid by the TAB —
- (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 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 TAB on any race on which the bet was made where the bet is placed by the TAB in a totalisator pool scheme which the TAB 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 section 20(1)(aa)(ii) that is placed by the TAB in a totalisator pool which the TAB is hereby authorised to conduct and operate, shall be paid by the TAB in accordance with the regulations.
- (3a) All moneys payable by way of dividend in respect of any bet referred to in section 20(1)(ca) shall be paid by the TAB in accordance with the regulations.
- (4) All moneys in respect of any bet referred to in section 20(1a) shall be placed by the TAB in a totalisator pool which the TAB is authorised to conduct and operate in relation to any sporting event, and moneys payable by way of dividend in respect of any such bet shall be paid by the TAB in accordance with the regulations.
- (5) The moneys payable as a dividend from a particular pool shall be calculated using the assumption that —
- (a) any bet included in the pool is validly made; and
  - (b) the result of any race or sporting event, once declared, is beyond dispute for the purposes of dividend calculation and payment.

**s. 23**

---

*[Section 22 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; No. 125 of 1987 s. 15; No. 66 of 1988 s. 15; No. 11 of 1992 s. 15; No. 40 of 1999 s. 15.]*

**23. Dividends on moneys transmitted by TAB to race clubs**

- (1) All moneys payable by way of dividends in respect of bets made on a totalisator on a race course through the TAB and transmitted to the totalisator by the TAB, shall be paid by the race clubs concerned to the TAB and shall, subject to this Act, be paid or credited by the TAB as agent for the race clubs to persons entitled thereto.
- (2) The race club shall pay to the TAB in respect of those dividends, the amount of the fractional part of 5c 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 TAB.

*[Section 23 amended by No. 51 of 1963 s. 3; No. 28 of 1966 s. 8; No. 103 of 1972 s. 6; No. 125 of 1987 s. 16; No. 11 of 1992 s. 15.]*

**23A. Unclaimed dividends, fixed odds winnings and refunds**

- (1) On and after the coming into operation of section 27 of the *Racing and Gambling Legislation Amendment and Repeal Act 2003* all moneys payable by way of dividends, fixed odd winnings and refunds by the TAB which are unclaimed for 7 months by any person entitled to the moneys shall —
  - (a) in the case of moneys payable by way of dividends, fixed odds winnings or refunds in respect of wagers made on sporting events, be paid by the TAB, into the Sports Wagering Account under section 110A of the *Gaming Commission Act 1987* as if the moneys were moneys payable by RWWA under section 107 of the RWWA Act; and

- (b) in the case of any other moneys, be paid by the TAB into an account established under section 88 of the RWWA Act.
- (2) Upon payment of moneys under subsection (1) into an account —
  - (a) the moneys become part of the funds of that account; and
  - (b) the person who was entitled to claim the moneys has no enforceable claim in respect of the moneys.
- (3) The moneys must be paid under subsection (1) not later than the last operating day of the month following the period of 7 months referred to in that subsection.
- (4) Subsection (1) does not apply to moneys which are credited by the TAB to a credit account established with it under this Act.

*[Section 23A inserted by No. 35 of 2003 s. 27.]*

## **Part 5 — Fixed odds betting**

*[Heading inserted by No. 40 of 1999 s. 16.]*

### **24. Fixed odds betting on racing and other events**

- (1) The TAB may conduct fixed odds betting on the results of —
  - (a) any race;
  - (b) any sporting event set out in, or prescribed under, section 19A; or
  - (c) any other approved event or type of event.
- (2) Subject to section 27A, fixed odds betting authorised under this section shall be conducted in accordance with rules made under section 24D.
- (3) In subsection (1) —

**“approved”** means approved by the Betting Control Board, by notice published in the *Gazette*.
- (4) Despite subsection (1), the TAB may not conduct fixed odds betting on a particular race or event if, in the opinion of the Betting Control Board —
  - (a) it would not be in the public interest to accept fixed odds bets on that race or event; or
  - (b) the race or event itself would not be in the public interest.

*[Section 24 inserted by No. 40 of 1999 s. 16.]*

### **24A. Fixed odds betting generally**

- (1) Despite anything contained in any other Act or law to the contrary, it shall be lawful —
  - (a) for fixed odds bets in respect of races to be lodged with and received by or on behalf of the TAB for transmission by the TAB to a body established by a written law that is authorised by that written law to

accept such bets, or to a body corporate prescribed for the purposes of section 27, whether it is within or outside the State;

- (b) for winnings to be paid by the TAB in respect of those fixed odds bets.
- (2) Fixed odds bets in respect of races, sporting events and other events, selected by the TAB, may be lodged with and received by or on behalf of the TAB in accordance with this Act, and winnings shall be payable by the TAB in respect of those bets, despite any other law.
- (3) The mere fact of any persons betting at fixed price odds through the TAB or betting with the TAB pursuant to this Act —
- (a) does not constitute the commission of an offence, whether at common law or under any Act, either by those persons, or by the TAB or any of its officers or agents or any of its employees; and
  - (b) is not a ground for any office or totalisator agency of the TAB, 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.
- (4) Nothing in this section precludes the TAB from determining not to accept fixed odds bets, at all or any of its totalisator agencies, on all or any races held at any race meeting or on any event, including a sporting event, on which fixed odds bets could be lawfully made by virtue of this section.

*[Section 24A inserted by No. 40 of 1999 s. 16.]*

**24B. Payment of fixed odds winnings by the TAB**

All winnings payable in respect of any fixed odd bet referred to in this Part shall be paid by the TAB to persons entitled thereto in accordance with the fixed odds offered at the time the bet was accepted.

*[Section 24B inserted by No. 40 of 1999 s. 16.]*

**s. 24D**

---

*[24C. Repealed by No. 35 of 2003 s. 28.]*

**24D. Rules for fixed odds betting**

- (1) The TAB may, with the approval of the Betting Control Board, make rules for the conduct of fixed odds betting under this Part.
- (2) The TAB shall ensure that a copy of any rules made under subsection (1), and any subsequent amendment to those rules, is included in a notice published in the *Gazette* for public information.

*[Section 24D inserted by No. 40 of 1999 s. 16.]*



## **Part 6 — General financial provisions**

*[Heading inserted by No. 40 of 1999 s. 17.]*

### **25. TAB betting tax**

The TAB shall, in accordance with this Act —

- (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;
- (b) pay tax on the whole of those moneys at the rates imposed by sections 2 and 3 of the *Totalisator Agency Board Betting Tax Act 1960*.

*[Section 25 amended by No. 11 of 1992 s. 15; No. 63 of 1995 s. 21; No. 40 of 1999 s. 18.]*

### **26. Reserve accounts**

- (1) For the purpose of establishing reserves, including funds —
  - (a) retained to cushion the effects of turnover fluctuations, for supplementing payments made under section 28 where in the opinion of the TAB revenue from its operations is below expectation, and for maintaining the ability to make a distribution to the racing codes;
  - (b) to meet capital commitments, including the repayment of borrowings;
  - (c) to provide for capital development in the long-term interests of the TAB;
  - (d) to meet contingent losses;
  - (da) to supplement certain totalisator pools under section 26A;
  - (e) for the maintenance, repair, improvement and equipment of premises used by the TAB or its agencies; and

**s. 26A**

---

- (f) for such other purposes as the Minister may, by notice published in the *Gazette*, authorise,

the TAB may, subject to the *Financial Administration and Audit Act 1985*, open and operate separate accounts under such headings as may be approved by the Treasurer.

- (2) Any funds formerly standing to the credit of the account maintained under section 26 immediately before the coming into operation of section 4 of the *Totalisator Agency Board Betting Amendment Act 1990*<sup>1</sup>, and not used for the purposes thereby authorised, may be credited to an account to be opened under subsection (1).

*[Section 26 inserted by No. 11 of 1992 s. 17; amended by No. 40 of 1999 s. 19.]*

**26A. Supplementary pool schemes**

The TAB may supplement the amount in any totalisator pool using moneys set aside for that purpose.

*[Section 26A inserted by No. 40 of 1999 s. 20.]*

**27. Combined pool schemes**

- (1) Subject to subsection (1a), the TAB may participate in a combined totalisator pool scheme with any person with intent —
  - (a) to establish a larger or national common pool;
  - (b) to reduce fluctuations in the odds;
  - (c) to pay higher average dividends than might otherwise be possible,

or for such other purposes as the Minister may approve.

- (1a) The TAB may only enter into an approved contractual relationship with a person who is a corporation if that corporation has been prescribed for the purposes of this section.

- (2) Where bets are received by or on behalf of the TAB in respect of a race conducted on a racecourse, or on any sporting event, the TAB may, at discretion, conduct and operate, or otherwise provide for the administration of, any combined totalisator pool scheme, and may distribute or cause to be distributed any dividends, in the State or elsewhere, in accordance with that scheme.
- (3) In this section —
- “corporation”** means any body corporate, whether formed or incorporated within or outside the State, including any “company” or “foreign company” (as those terms are defined in the *Corporations Act 2001* of the Commonwealth) but does not include —
- (a) a body corporate that is a public authority or an instrumentality or agency of the Crown; or
  - (b) a body corporate formed for a public purpose under a written law of another country.

*[Section 27 inserted by No. 11 of 1992 s. 17; amended by No. 24 of 1994 s. 5; No. 40 of 1999 s. 21; No. 10 of 2001 s. 196.]*

**27A. Arrangements with other persons**

- (1) Subject to subsection (2), the TAB may enter into an approved contractual arrangement with another person —
- (a) for the purposes of betting generally, as set out in section 27; or
  - (b) for the purpose of fixed odds betting as set out in this section,

to provide a jointly operated fixed odds betting system and may adopt, and operate under, any rules pertaining to that joint system that may already be in place.

**s. 28**

---

- (2) The TAB may only enter into an approved contractual relationship with a person who is a corporation if that corporation has been prescribed for the purposes of this section.
- (3) The TAB shall ensure that a copy of any rules adopted under subsection (1), and any subsequent amendment to those rules, is —
- (a) delivered to the Betting Control Board;
  - (b) made available at the TAB’s head office for perusal on demand; and
  - (c) included in a notice published in the *Gazette* for public information.

- (4) In this section —

**“approved”** means approved by the Minister on the recommendation of the Betting Control Board;

**“corporation”** means any body corporate, whether formed or incorporated within or outside the State, including any “company” or “foreign company” (as those terms are defined in the *Corporations Act 2001* of the Commonwealth) but does not include —

- (a) a body corporate that is a public authority or an instrumentality or agency of the Crown; or
- (b) a body corporate formed for a public purpose under a written law of another country.

*[Section 27A inserted by No. 40 of 1999 s. 22; amended by No. 10 of 2001 s. 196.]*

*[27B. Repealed by No. 35 of 2003 s. 29.]*

**28. Allocation of TAB’s funds**

- (1) In respect of moneys received from fixed odds bets and totalisator bets made with the TAB on sporting events, the TAB after paying —
- (a) all winnings and dividends in respect of the bets; and

- (b) the amount of betting tax imposed under section 25 in respect of the bets,

shall pay 25%, or such other percentage as may be prescribed, of the balance to the Sports Wagering Account established under section 110A of the *Gaming Commission Act 1987*.

- (2) The TAB after paying —
- (a) the amounts required to be paid under subsection (1);
  - (b) all other winnings and dividends in respect of fixed odds bets and totalisator bets;
  - (c) any other amount of betting tax imposed under section 25 in respect of fixed odds bets and totalisator bets;
  - (d) the respective amounts required for the time being to the credit of a reserve account opened under section 26; and
  - (e) all other outgoings and expenses of the TAB in relation to its functions under this Act,

shall pay the balance of the moneys it receives from fixed odds bets and totalisator bets, or otherwise in relation to its functions under this Act, into an account established under section 88 of the RWWA Act.

- (3) The balance referred to in subsection (2) shall be paid by periodical or other payment in such manner as the Minister may direct.
- (4) Moneys paid under subsection (2) into an account established by RWWA —
- (a) become the funds of RWWA; and
  - (b) may be paid for any purpose for which RWWA is authorised or required to pay moneys under section 105(1)(d), (e), (h) and (i) of the RWWA Act.
- (5) The balance of the moneys remaining after the payments referred to in subsection (4)(b) is to be paid or credited in accordance with section 105(2) to (6) of the RWWA Act.

**s. 29**

---

*[Section 28 inserted by No. 35 of 2003 s. 30.]*

*[28AA. Repealed by No. 63 of 1995 s. 22.]*

*[28A. Repealed by No. 35 of 2003 s. 31.]*

**29. Exemption of TAB from stamp duties**

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

*[Section 29 amended by No. 11 of 1992 s. 15; No. 66 of 2003 s. 96.]*

*[30. Repealed by No. 63 of 1995 s. 23.]*

*[31, 32. Repealed by No. 11 of 1992 s. 21 and 22.]*

---

## Part 7 — Miscellaneous

*[Heading inserted by No. 40 of 1999 s. 24.]*

### 33. Provisions relating to bets through TAB

The following provisions apply in relation to betting through the TAB —

- (a) the TAB, or any of its officers, agents or employees or any employee of an agent of the TAB shall not accept a bet unless made —
  - (i) by the deposit of the amount of the bet in cash at a totalisator agency;
  - (ia) by the transfer of the amount using a prescribed method of payment or funds transfer, that does not involve the provision of credit by the TAB;
  - (ib) by cheque at a totalisator agency in prescribed circumstances; or
  - (ii) by letter sent through the post or by telegram or telephone message received at a totalisator agency or by electronic communication received at a totalisator agency,  
in accordance with the provisions of this Act;
- (b) the TAB, or any of its officers, agents or employees or any employee of an agent of the TAB shall not accept any bet that is made by letter or by telegram or telephone message unless —
  - (i) the person making the bet has established with the TAB in accordance with this Act, a credit account sufficient to pay the amount 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

**s. 34**

---

through the post with the letter or payment thereof is arranged by telegram in accordance with this Act.

*[Section 33 amended by No. 39 of 1962 s. 3; No. 65 of 1970 s. 2; No. 87 of 1972 s. 8; No. 125 of 1987 s. 18; No. 11 of 1992 s. 15; No. 40 of 1999 s. 25; No. 74 of 2003 s. 118(4).]*

**34. Credit accounts**

A credit account may be established with the TAB for any amount of not less than \$2 and may in accordance with this Act be maintained by the payments of further moneys or the credit of winnings to that account.

*[Section 34 amended by No. 28 of 1966 s. 8; No. 11 of 1992 s. 15.]*

**35. Minimum amount of a bet**

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 25c.

*[Section 35 amended by No. 28 of 1966 s. 8.]*

**36. Power of members of the TAB, Commissioner of State Revenue, and other persons to enter race courses and totalisator agencies, etc.**

- (1) Members of the TAB, members of the Betting Control Board established under the *Betting Control Act 1954*, the person occupying the office of Commissioner of State Revenue and persons authorised by the TAB, the Betting Control Board, the Commissioner or the Minister have at all times access, without charge, to and authority to inspect race courses or any venue at which a sporting event on which betting takes place is being held, totalisators, totalisator agencies and other premises of the TAB, and any person refusing such access or otherwise hindering, delaying or obstructing a member, a member of the Betting Control Board, the Commissioner, or person so



authorised, in the carrying out of a function related to this Act commits an offence.

Penalty: \$1 000.

- (2) The Betting Control Board, and persons authorised by it, and the Commissioner of State Revenue for the purposes of this Act shall have such further powers and perform such further duties as may be prescribed.

*[Section 36 amended by No. 28 of 1966 s. 8; No. 21 of 1970 s. 58; No. 125 of 1987 s. 19; No. 11 of 1992 s. 15 and 23; No. 63 of 1995 s. 24; No. 40 of 1999 s. 26.]*

*[37-39. Repealed by No. 63 of 1995 s. 25.]*

**40. Communication and broadcasting of information**

*[(1) repealed]*

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

*[Section 40 amended by No. 125 of 1987 s. 23; No. 11 of 1992 s. 15; No. 63 of 1995 s. 26; No. 40 of 1999 s. 27.]*

*[41-46, 46A, 46B, 47-51, 51A, 52-54. Repealed by No. 63 of 1995 s. 27.]*

**s. 55**

---

**55.        Effect of bets transmitted by TAB to totalisators on existing contracts for working totalisators**

- (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 under any written law, or is otherwise to be ascertained by reference to those moneys or to that amount, no amounts transmitted to the totalisator by the TAB, 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.
- (2) Except with the mutual consent of the parties thereto, no contract referred to in subsection (1) 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.

*[Section 55 amended by No. 11 of 1992 s. 15; No. 63 of 1995 s. 28.]*

**56.        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 TAB and its operations.
- (2) Notwithstanding the provisions of the *Financial Administration and Audit Act 1985*, the financial year of the TAB shall end on 31 July.

*[Section 56 inserted by No. 98 of 1985 s. 3; amended by No. 11 of 1992 s. 15.]*

**56A. Supplementary provision as to laying documents before Parliament**

- (1) If —
- (a) at the commencement of a period referred to in section 19AE(5), 19AH(4), 19AN(5), 19AP(2) or 19AQ(4) in respect of a document, a House of Parliament is not sitting; and
  - (b) the Minister is of the opinion that that House will not sit during that period,

the Minister is to transmit a copy of the document to the Clerk of that House.

- (2) A copy of a document transmitted to the Clerk of a House is to be —
- (a) taken to have been laid before that House; and
  - (b) taken to be a document published by order, or under the authority, of that House.
- (3) The laying of a copy of a document that is taken to have occurred under subsection (2)(a) is to be recorded in the Minutes, or Votes and Proceedings, of the House on the first sitting day of the House after the receipt of the copy by the Clerk.

*[Section 56A inserted by No. 40 of 1999 s. 28.]*

**56B. Immunity from certain claims**

- (1) No claim lies against the TAB, a member, or an officer, employee or agent of the TAB in relation to a bet (whether made before or after the commencement of this section) that has been accepted by or on behalf of the TAB otherwise than in accordance with a written law.
- (2) Subsection (1) does not apply to a claim —
- (a) made before 6 February 1999; or
  - (b) made by the TAB against an agent of the TAB.

*[Section 56B inserted by No. 13 of 2002 s. 32.]*

**57. 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.
- (2) Any rules referred to in subsection (3) or regulations made under this Act or the *Betting Control Act 1954*, in relation to a totalisator on a racecourse, 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) Where and to the extent that there is inconsistency between —
  - (a) any regulations made —
    - (i) under this Act; or
    - (ii) under the *Betting Control Act 1954* in relation to a totalisator or fixed odds betting;and
  - (b) any rules made by the TAB 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 of racing having effect under the *Western Australian Greyhound Racing Authority Act 1981*, or by-laws, rules or regulations made by a racing club under the *Associations Incorporation Act 1895*<sup>4</sup> or the *Associations Incorporation Act 1987*, or any other Act,the regulations referred to in paragraph (a) prevail.
- (4) The regulations made by the Board and in operation immediately before the coming into operation of Part 2 of the

*Acts Amendment and Repeal (Betting) Act 1992*<sup>1</sup> shall, having been so made with the approval of the Governor for the time being, be taken for all purposes to have been made in accordance with subsection (1) and to continue to have effect.

*[Section 57 amended by No. 28 of 1966 s. 8; No. 21 of 1970 s. 59; No. 87 of 1972 s. 7 and 8; No. 125 of 1987 s. 32; No. 11 of 1992 s. 15 and 24; No. 63 of 1995 s. 29; No. 23 of 1998 s. 20; No. 40 of 1999 s. 29.]*

## **Schedule 1**

[Section 6(10)]

### **Provisions applicable to the Board and sub-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 sub-committee of the Board who has a direct or indirect interest, other than as a member, in a matter before the Board or a sub-committee —

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

#### **3. General procedure concerning meetings**

- (1) The procedure for convening meetings of the Board or a sub-committee and the conduct of business at those meetings shall, subject to this Act, be as determined by the Board.
- (2) The Board is required to cause accurate minutes of its meetings to be recorded and preserved.
- (3) The first meeting of the Board shall be convened by the presiding member.

**4. Presiding member**

At a meeting of the Board —

- (a) the chairperson, or in his or her absence the deputy of the chairperson, shall preside; or
- (b) in the absence of both of those members, a member elected by the members present shall preside.

**5. Quorum**

A quorum of the Board is 4 members.

**6. Voting**

- (1) A decision of the majority of members at a meeting of the Board at which a quorum is present is the decision of the Board.
- (2) If the votes of members present at a meeting and voting are equally divided the presiding member shall have a casting vote in addition to a deliberative vote.

**7. Sub-committees**

- (1) The Board may from time to time appoint sub-committees of such members, or such members and other persons, as it thinks fit and may discharge or alter any sub-committee so appointed.
- (2) Subject to the directions of the Board and to the terms of any delegation under section 13, each sub-committee may determine its own procedures.
- (3) A sub-committee shall cause accurate minutes of its meetings to be recorded and preserved.

**8. 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. 12.]*

*[Second Schedule repealed by No. 63 of 1995 s. 30.]*

**Notes**

<sup>1</sup> This is a compilation of the *Totalisator Agency Board Betting Act 1960* and includes the amendments made by the other written laws referred to in the following table <sup>9</sup>. For amendments that had not come into operation on the date on which this compilation was prepared see endnote <sup>1a</sup>. The table also contains information about any reprint.

**Compilation table**

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Totalisator Agency Board Betting Act 1960</i>	50 of 1960	28 Nov 1960	31 Dec 1960 (see s. 2 and <i>Gazette</i> 23 Dec 1960 p. 4073)
<i>Totalisator Agency Board Betting Act Amendment Act 1961</i>	15 of 1961	20 Oct 1961	20 Oct 1961
<i>Totalisator Agency Board Betting Act Amendment Act (No. 2) 1962</i>	39 of 1962	29 Oct 1962	29 Oct 1962
<i>Totalisator Agency Board Betting Act Amendment Act 1963</i>	26 of 1963	13 Nov 1963	13 Nov 1963
<i>Totalisator Agency Board Betting Act Amendment Act (No. 4) 1963</i>	51 of 1963	17 Dec 1963	1 Jan 1964 (see s. 2)
<i>Totalisator Agency Board Betting Act Amendment Act 1966</i>	28 of 1966	27 Oct 1966	s. 1, 2 and 5: 1 Aug 1966 (see s. 2(1)); balance: 11 Nov 1966 (see s. 2(2) and <i>Gazette</i> 11 Nov 1966 p. 2899)
<b>Reprint of the <i>Totalisator Agency Board Betting Act 1960</i> approved 9 Apr 1968 in Vol. 22 of Reprinted Acts</b> (includes amendments listed above)			
<i>Acts Amendment (Commissioner of State Taxation) Act 1970 Pt. XI</i>	21 of 1970	8 May 1970	1 Jul 1970 (see s. 2 and <i>Gazette</i> 26 Jun 1970 p. 1831)
<i>Totalisator Agency Board Betting Act Amendment Act 1970</i>	65 of 1970	17 Nov 1970	17 Nov 1970
<i>Age of Majority Act 1972</i> s. 6(2)	46 of 1972	18 Sep 1972	1 Nov 1972 (see s. 2 and <i>Gazette</i> 13 Oct 1972 p. 4069)



## Totalisator Agency Board Betting Act 1960

Short title	Number and year	Assent	Commencement
<i>Totalisator Agency Board Betting Act Amendment Act (No. 2) 1972</i>	87 of 1972	20 Nov 1972	1 Aug 1973 (see s. 2 and <i>Gazette</i> 15 Jun 1973 p. 2216)
<i>Totalisator Agency Board Betting Act Amendment Act (No. 3) 1972</i>	103 of 1972	6 Dec 1972	6 Dec 1972
<i>Totalisator Agency Board Betting Act Amendment Act 1973</i>	64 of 1973	28 Nov 1973	11 Aug 1978 (see s. 2 and <i>Gazette</i> 11 Aug 1978 p. 2859)
<b>Reprint of the <i>Totalisator Agency Board Betting Act 1960</i> approved 22 Jan 1979</b> (includes amendments listed above)			
<i>Totalisator Agency Board Betting Amendment Act 1985</i>	48 of 1985	16 Oct 1985	13 Nov 1985
<i>Acts Amendment (Financial Administration and Audit) Act 1985 s. 3</i>	98 of 1985	4 Dec 1985	1 Jul 1986 (see s. 2 and <i>Gazette</i> 30 Jun 1986 p. 2255)
<i>Acts Amendment (Public Service) Act 1987 s. 32</i>	113 of 1987	31 Dec 1987	16 Mar 1988 (see s. 2 and <i>Gazette</i> 16 Mar 1988 p. 813)
<i>Acts Amendment (Totalisator Agency Board Betting) Act 1987 Pt. II (s. 3-32)</i>	125 of 1987	31 Dec 1987	s. 3-5 and 12-32: 25 Mar 1988 (see s. 2 and <i>Gazette</i> 25 Mar 1988 p. 933); s. 6-11: 27 May 1988 (see s. 2 and <i>Gazette</i> 27 May 1988 p. 1716)
<i>Acts Amendment (Racing Industry) Act 1988 Pt. 3<sup>5</sup></i>	66 of 1988	22 Dec 1988	s. 11 and 18: 1 Aug 1988 (see s. 2(1)); s. 12, 13, 15-17, 19 and 20: 22 Dec 1988 (see s. 2(3)); s. 14: 26 May 1989 (see s. 2(2) and <i>Gazette</i> 26 May 1989 p. 1543)
<i>Acts Amendment (Accountability) Act 1989 Pt. 7</i>	5 of 1989	26 Apr 1989	1 Jul 1989 (see s. 2 and <i>Gazette</i> 30 Jun 1989 p. 1893)
<i>Racing Penalties (Appeals) Act 1990 s. 29</i>	46 of 1990	26 Nov 1990	15 Apr 1991 (see s. 2 and <i>Gazette</i> 12 Apr 1991 p. 1597)

## Totalisator Agency Board Betting Act 1960

Short title	Number and year	Assent	Commencement
<i>Totalisator Agency Board Betting Amendment Act 1990</i> <sup>6</sup>	94 of 1990	22 Dec 1990	s. 5(b) and (c): 22 Dec 1990 (see s. 2(2)); balance: 1 Feb 1991 (see s. 2(1) and <i>Gazette</i> 25 Jan 1991 p. 267)
<b>Reprint of the Totalisator Agency Board Betting Act 1960 as at 27 Sep 1991</b> (includes amendments listed above) (errata in <i>Gazette</i> 1 May 1992 p. 1796 and 9 Mar 1993 p. 1519)			
<i>Acts Amendment and Repeal (Betting) Act 1992 Pt. 2</i>	11 of 1992	16 Jun 1992	31 Jul 1992 (see s. 2(1) and <i>Gazette</i> 31 Jul 1992 p. 3735)
<i>Financial Administration Legislation Amendment Act 1993 s. 11</i>	6 of 1993	27 Aug 1993	1 Jul 1993 (see s. 2(1))
<i>Totalisator Agency Board Betting Amendment Act 1994</i>	24 of 1994	23 Jun 1994	23 Jun 1994 (see s. 2)
<i>Acts Amendment (Public Sector Management) Act 1994 s. 19</i>	32 of 1994	29 Jun 1994	1 Oct 1994 (see s. 2 and <i>Gazette</i> 30 Sep 1994 p. 4948)
<i>Statutes (Repeals and Minor Amendments) Act 1994 s. 4</i>	73 of 1994	9 Dec 1994	9 Dec 1994 (see s. 2)
<i>Acts Amendment (Racing and Betting Legislation) Act 1995 Pt. 2</i>	63 of 1995	27 Dec 1995	28 Jun 1996 (see s. 2 and <i>Gazette</i> 25 Jun 1996 p. 2901)
<i>Statutory Corporations (Liability of Directors) Act 1996 s. 3</i>	41 of 1996	10 Oct 1996	1 Dec 1996 (see s. 2 and <i>Gazette</i> 12 Nov 1996 p. 6301)
<i>Financial Legislation Amendment Act 1996 s. 64</i>	49 of 1996	25 Oct 1996	25 Oct 1996 (see s. 2(1))
<b>Reprint of the Totalisator Agency Board Betting Act 1960 as at 2 Dec 1996</b> (includes amendments listed above)			
<i>Statutes (Repeals and Minor Amendments) Act (No. 2) 1998 s. 67</i> <sup>7</sup>	10 of 1998	30 Apr 1998	30 Apr 1998 (see s. 2(1))
<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)

Short title	Number and year	Assent	Commencement
<i>Acts Amendment (Fixed Odds Betting) Act 1999 Pt. 2</i> <sup>8</sup>	40 of 1999 (as amended by No. 74 of 2003 s. 22)	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. 52</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)
<i>Betting Legislation Amendment Act 2002 Pt. 3</i> <sup>2</sup>	13 of 2002	8 Jul 2002	21 Sep 2002 (see s. 2 and <i>Gazette</i> 20 Sep 2002 p. 4693)
<b>Reprint of the <i>Totalisator Agency Board Betting Act 1960</i> as at 8 Nov 2002</b> (includes amendments listed above)			
<i>Racing and Gambling Legislation Amendment and Repeal Act 2003 Pt. 4 Div. 1</i> (s. 25-31), s. 32 <sup>10, 11</sup>	35 of 2003	26 Jun 2003	Pt. 4 Div. 1 (s. 25-31): 1 Aug 2003 (see s. 2 and <i>Gazette</i> 29 Jul 2003 p. 3259); s. 32: 30 Jan 2004 (see s. 2 and <i>Gazette</i> 30 Jan 2004 p. 397)
<i>Business Tax Review (Assessment) Act (No. 2) 2003 s. 96</i>	66 of 2003	5 Dec 2003	1 Jan 2004 (see s.2(1) and <i>Gazette</i> 30 Dec 2003 p. 5721)
<i>Statutes (Repeals and Minor Amendments) Act 2003 s. 118</i> <sup>12</sup>	74 of 2003	15 Dec 2003	15 Dec 2003 (see s. 2)

<sup>2</sup> The *Betting Legislation Amendment Act 2002* s. 33 reads as follows:

“

**33. Validation of acts of manager**

(1) In this section —

“**Board**” means the governing body of the TAB provided for in section 6 of the *Totalisator Agency Board Betting Act 1960*;

“**manager**” means the person appointed a manager under section 16(1) of the *Totalisator Agency Board Betting Act 1960*;

“**relevant period**” means the period commencing on the day on which Part 2 of the *Acts Amendment (Racing and Betting Legislation) Act 1995* came into operation and ending on the day on which section 31 of the *Betting Legislation Amendment Act 2002* comes into operation;

“the TAB” has the same meaning as in section 3 of the  
*Totalisator Agency Board Betting Act 1960*.

- (2) Anything done during the relevant period by the manager of the TAB purportedly under a delegation of a function by the Board to the manager under section 13(1) of the *Totalisator Agency Board Betting Act 1960* that would have been validly done had section 31 of the *Betting Legislation Amendment Act 2002* come into operation before the relevant period is to be regarded as having been validly done and to have always been done effectually in all respects.

”.

<sup>3</sup> Pt. 3 commenced 15 Jan 2000.

<sup>4</sup> Repealed by the *Associations Incorporation Act 1987*.

<sup>5</sup> The *Acts Amendment (Racing Industry) Act 1988* Pt. 7 reads as follows:

“

### **Part 7 — Transitional**

#### **28. Refunds**

The Commissioner of State Taxation appointed under the *Public Service Act 1978* shall —

- (a) refund to the Board any amount of Totalisator Agency Board betting tax paid to the Commissioner on moneys received by the Board on or after 1 August 1988 and before the coming into operation of this section that is in excess of the amount required to be paid under section 25 of the *Totalisator Agency Board Betting Act 1960* and section 2 of the *Totalisator Agency Board Betting Tax Act 1960* as amended by this Act; and
- (b) refund to a racing club any amount of duty paid by that racing club to the Commissioner under section 3(4) of the *Totalisator Duty Act 1905* upon the gross takings of a totalisator taken on or after 1 August 1988.

”.

<sup>6</sup> The *Totalisator Agency Board Betting Amendment Act 1990* s. 4(2), (3) and (4) read as follows:

“

- (2) Any moneys standing to the credit of the account maintained under section 26 of the principal Act immediately before the coming into operation of this section may be used by the Totalisator Agency Board for carrying out the matters referred to

in section 17 of the principal Act or generally for the conduct of the operation of the Board under the principal Act.

- (3) The following actions taken by the Totalisator Agency Board before the coming into operation of this section are deemed to have always been valid and effective —
- (a) the payment of moneys received by the Board from the sale of any property of the Board into the account maintained under section 26 of the principal Act;
  - (b) the use of moneys in the account maintained under section 26 of the principal Act for the purchase of shares in any corporation or business undertaking to facilitate the dissemination and publication of information relating to races, dividends and the operation of the Board.
- (4) Notwithstanding its terms, subsection (3) shall not relieve any person from any civil liability arising from any duty owed to the Board or under any written law or any criminal liability that he or she would otherwise have had, had it not been for the enactment of that subsection in respect of any act or omission which occurred prior to the coming into operation of this Act.

”.

<sup>7</sup> The amendments in the *Sentencing (Consequential Provisions) Act 1995* Pt. 77 and Pt. 88 (item relating to the *Totalisator Agency Board Betting Act 1960*) and the *Statutes (Repeals and Minor Amendments) Act (No. 2) 1998* s. 64(3) and (4) (that amends the *Sentencing (Consequential Provisions) Act 1995*) had no effect because the provisions to be amended were repealed by the *Acts Amendment (Racing and Betting Legislation) Act 1995* s. 27 before the amendments purported to come into operation.

<sup>8</sup> The amendment in the *Acts Amendment (Fixed Odds Betting) Act 1999* s. 23(2) (as amended by No. 74 of 2003 s. 22) is not included because the section it sought to amend had been replaced by No. 35 of 2003 s. 30.

<sup>9</sup> The *Totalisator Agency Board Betting Act 1960* is to be read as if it were amended by the *Totalisator Agency Board Betting (Modification of Operation) Act 2000* (as amended by the *Totalisator Agency Board (Modification of Operation) Amendment Act 2002*) which expires 31 July 2003. Sections 3-8 read as follows:

“

### **3. Modification of Act**

The *Totalisator Agency Board Betting Act 1960* is to be read as if it were amended as set out in this Act.

**4. Section 3 amended**

Section 3 is amended by inserting the following definition in the appropriate alphabetical position —

“

“**Metropolitan Area**” means the part of the State that comprises the region described in the Third Schedule to the *Metropolitan Region Town Planning Scheme Act 1959*;

”.

**5. Section 27B amended**

(1) Section 27B is amended as follows:

- (a) by inserting before “The TAB” the subsection designation “(1)”;
- (b) by deleting paragraphs (f), (g) and (h) and inserting the following paragraphs instead —

“

- (f) in the case of money generated from horse or greyhound races — to one or more of the following, if and as directed by the Minister in writing —
  - (i) the Club;
  - (ii) the Association;
  - (iii) the Fremantle Trotting Club;
  - (iv) WAGRA; or
  - (v) the racing clubs registered with the Club or the Association and conducting races outside the Metropolitan Area;
- (g) in the case of money generated from betting on events (including sporting events referred to in section 24) and unclaimed winnings and refunds under section 24C(c) — into the TAB Sports Betting Account.

”.

(2) At the end of section 27B the following subsections are inserted —

“

- (2) Money paid because of a direction under subsection (1)(f) can only be used for a purpose prescribed in the regulations.

- (3) In a direction given under subsection (1)(f), the Minister —
- (a) is to set out the amount or each amount that is to be paid and to whom it is to be paid;
  - (b) is to set out the manner in which the amount or each amount is to be paid; and
  - (c) may determine what conditions are to be imposed on the payment and use of the amount or each amount.

”.

**6. Section 28 amended**

- (1) Section 28(1) is amended as follows:
- (a) in paragraph (d) by deleting the semicolon and inserting instead a comma;
  - (b) by deleting paragraph (e).
- (2) Section 28(2) and (3) are repealed and the following subsections are inserted instead —
- “
- (2) Each time an amount is paid from the balance referred to in subsection (1), the TAB must pay —
    - (a) the Club — 55.26% of that amount;
    - (b) the Association — 29.76% of that amount; and
    - (c) WAGRA — 14.98% of that amount.
  - (3) For each racing year commencing on or after 1 August 2000, the TAB must —
    - (a) if the total balance payable under subsection (1) for the racing year is less than or equal to the prescribed maximum — pay all of those funds under subsection (2); and
    - (b) if the total balance payable under subsection (1) for the racing year is greater than the prescribed maximum — pay the prescribed maximum of those funds under subsection (2) and the remainder of those funds to one or more of the following, if and as directed by the Minister in writing —
      - (i) the Club;
      - (ii) the Association;
      - (iii) the Fremantle Trotting Club;
      - (iv) WAGRA; or

- (v) the racing clubs registered with the Club or the Association and conducting races outside the Metropolitan Area.
- (3a) In subsection (3) —
- “**prescribed maximum**” means \$50 000 000, or such greater amount as is prescribed;
  - “**total balance payable under subsection (1)**” means the total of the funds payable under subsection (1) (after making the payments required by subsection (1)(a), (b), (c) and (d)).
- ”.
- (3) Section 28(4) and (5) are amended by deleting “or section 27B(1)(f)”.
- (4) Section 28(5) is amended by deleting “pursuant to subsection (3)” and inserting instead —
- “ pursuant to subsection (2) ”.
- (5) Section 28(6) is repealed and the following subsections are inserted instead —
- “
- (6) Money paid because of a direction under subsection (3)(b) can only be used for a purpose prescribed in the regulations.
  - (6a) In a direction given under subsection (3)(b), the Minister —
    - (a) is to set out the amount or each amount that is to be paid and to whom it is to be paid;
    - (b) is to set out the manner in which the amount or each amount is to be paid; and
    - (c) may determine what conditions are to be imposed on the payment and use of the amount or each amount.
- ”.
- (6) Section 28(7) is amended by deleting “this section” and inserting instead —
- “ subsection (2) ”.
- (7) After section 28(7) the following subsection is inserted —
- “
- (8) If an amount that is paid into a reserve account under subsection (1)(d) is withdrawn for a purpose other than a



purpose set out in paragraphs (b) to (f) of section 26(1) that amount —

- (a) is to be paid under subsection (2); and
- (b) is, for the purposes of subsection (3) and for the racing year in which it is paid, taken to be part of the total balance payable under subsection (1) for the racing year.

”.

**7. Transitional**

- (1) Despite subsections (1), (2), (3) and (3a) of section 28 of the principal Act as in force at any time during the racing year commencing on 1 August 2000, the TAB must, after the commencement of this Act, make payments to the Club, the Association or WAGRA of amounts (including nil amounts) calculated so as to produce, by 31 July 2001, the distribution of funds that would have resulted under those subsections (apart from directions made under section 28(3)(b) of the principal Act) had this Act commenced on 1 August 2000.
- (2) For the purposes of giving effect to subsection (1), the TAB —
  - (a) may use funds paid into the reserve accounts referred to in section 28(1)(d) of the principal Act; but
  - (b) may not require a refund of an amount paid under section 28(1)(e), (2) or (3) of the principal Act as in force before the commencement of this Act.
- (3) During the period ending immediately before 1 August 2001, regulations made under the principal Act may require the TAB to use a specified amount of the funds paid into the reserve accounts referred to in section 28(1)(d) of the principal Act to make payments to one or more of —
  - (a) the Club;
  - (b) the Association;
  - (c) the Fremantle Trotting Club;
  - (d) WAGRA; or
  - (e) the racing clubs registered with the Club or the Association and conducting races outside the Metropolitan Area,as specified in a direction of the Minister (including as to the recipients, the amounts and the manner of payment).
- (4) Regulations made for the purposes of subsection (3) and directions of the Minister under that subsection have effect despite anything in the principal Act.

(5) In this section —  
“**principal Act**” means the *Totalisator Agency Board Betting Act 1960*;

and other words and expressions in this section have the same respective meanings as they have in the principal Act.

**8. Expiry of this Act**

(1) This Act expires at the end of 31 July 2003.

(2) Without limiting section 37 of the *Interpretation Act 1984*, the expiry of this Act does not affect any payment made or to be made as a consequence of the *Totalisator Agency Board Betting Act 1960* as modified by this Act.

[Section 8 amended by No. 12 of 2002 s. 5.]

”.

<sup>10</sup> The *Racing and Gambling Legislation Amendment and Repeal Act 2003* s. 3, Pt. 2 and s. 19 read as follows:

“

**3. Definitions**

In this Act —

“**appointed day**” means the day fixed by order under section 7;

“**assets**” means —

- (a) property of every kind whether tangible or intangible, real or personal, corporeal or incorporeal; and
- (b) without limiting paragraph (a) includes choses in action, goodwill, rights, interests and claims of every kind in or to property, whether arising from, accruing under, created or evidenced by or the subject of, an instrument or otherwise and whether liquidated or unliquidated, actual, contingent or prospective;

“**commencement day**” means the day of which Part 1 of the RWWA Act comes into operation;

“**liability**” means any liability, duty or obligation whether actual, contingent or prospective, liquidated or unliquidated, or whether owned alone or jointly or jointly and severally with any other person;

“**right**” means any right, power, privilege or immunity whether actual, contingent or prospective;

“**RWWA**” means Racing and Wagering Western Australia established under the *Racing and Wagering Western Australia Act 2003*;

“**RWWA Act**” means the *Racing and Wagering Western Australia Act 2003* and, without limiting section 46 of the *Interpretation Act 1984*, includes a reference to the rules of racing made under, or continued for the purposes of, that Act.

”

“

## **Part 2 — Transitional matters related to enactment of RWWA Act**

### **4. Definitions**

- (1) In this Part, unless the contrary intention appears —
- “**old Greyhound Racing Rules**” means Greyhound Racing Rules made under section 7B of the *Western Australian Greyhound Racing Authority Act 1981* and in force immediately before commencement day;
- “**old Rules of Harness Racing**” means the Rules of Harness Racing 1999 made or adopted under by-laws under the *Western Australian Trotting Association Act 1946* and in force immediately before commencement day;
- “**old Rules of Racing**” means Rules of Racing of the Western Australian Turf Club made or adopted by the Western Australian Turf Club and in force immediately before commencement day;
- “**TAB**” means the Totalisator Agency Board established under the *Totalisator Agency Board Betting Act 1960*;
- “**TABB Act**” means the *Totalisator Agency Board Betting Act 1960*.
- (2) Unless otherwise specified or a contrary intention appears, words and expressions in this Part have the same meaning as in the RWWA Act.

### **5. First appointments to the board**

- (1) Despite sections 11 and 12 of the RWWA Act, for the purpose of the first appointments of directors to the board —
- (a) the following bodies are eligible thoroughbred racing bodies for the purposes of sections 8(1)(b) and 11(2)(c) of the RWWA Act —
- (i) The Western Australian Turf Club;
  - (ii) the Western Australian Provincial Thoroughbred Racing Association;

- (iii) the Country Racing Association;
  - (iv) the Western Australian Thoroughbred Racing Industry Council;
  - (b) the following bodies are eligible harness racing bodies for the purposes of sections 8(1)(c) and 11(2)(d) of the RWWA Act —
    - (i) the Western Australian Trotting Association;
    - (ii) the Fremantle Trotting Club (Inc.);
    - (iii) the Western Australian Country Trotting Association;
    - (iv) the Western Australian Standardbred Breeders' Association Inc.;
    - (v) the Western Australian Harness Racing Breeders, Owners, Trainers and Reinspersons' Association (Inc.);
    - (vi) the Harness Racing Owners' Association of WA Incorporated;
  - (c) the following bodies are eligible greyhound racing bodies for the purposes of sections 8(1)(d) and 11(2)(e) of the RWWA Act —
    - (i) the Western Australian Greyhound Racing Authority;
    - (ii) the Avon Valley Greyhound Racing Association;
    - (iii) the Western Australian Greyhound Breeders, Owners and Trainers Association;
- and
- (d) the Minister is to nominate a person for the purposes of section 11(2)(b) of the RWWA Act instead of the board.
- (2) The Minister may give directions for facilitating the constitution of the first board of directors of RWWA and those directions have the same effect as an order made under section 9 of the RWWA Act.

**6. Acting CEO**

The Minister may appoint a person to act in the office of CEO under section 20 of the RWWA Act during the period before the board first appoints a CEO under that section.

- 7. RWWA not to exercise gambling functions until appointed day**
- (1) RWWA must not exercise any of its functions under Part 5 of the RWWA Act until the day fixed under subsection (2).
  - (2) The Minister may, by order published in the *Gazette*, fix a day (the “**appointed day**”) on which RWWA is authorised to exercise its functions under Part 5 of the RWWA Act.
  - (3) Until the appointed day, the functions (to the extent that they are like functions of the TAB under the TABB Act immediately before the appointed day) remain functions of the TAB and may continue to be exercised by the TAB under the TABB Act.
- 8. Strategic development plan**
- (1) The first strategic development plan for RWWA under Part 6 Division 1 of the RWWA Act is to be for a period starting 1 August 2004.
  - (2) The last strategic development plan for the TAB under the TABB Act before the appointed day is to operate after the appointed day as a strategic development plan for RWWA in relation to its gambling operations until a first strategic development plan for RWWA in relation to those operations is agreed under the RWWA Act.
- 9. Statement of corporate intent**
- (1) The first statement of corporate intent for RWWA under Part 6 Division 2 of the RWWA Act is to be for the financial year commencing 1 August 2004.
  - (2) The last statement of corporate intent for the TAB under the TABB Act before the appointed day is to operate after the appointed day as a statement of corporate intent for RWWA in relation to its gambling operations until a first statement of corporate intent for RWWA in relation to those operations is submitted under the RWWA Act.
- 10. Borrowing limits**
- The first monetary limits under section 98 of the RWWA Act are to be determined in relation to the first financial year of RWWA to start on or after commencement day.
- 11. Rules of racing — continuation and expiry**
- (1) Subject to subsection (5), the old Rules of Harness Racing continue in force with such changes as are necessary on and after commencement day —

- (a) to the extent that the rules deal with matters of racing, as if the rules were made by RWWA as Rules of Harness Racing under section 45 of the RWWA Act; and
  - (b) to the extent that the rules deal with totalisators on racecourses —
    - (i) before the appointed day as if the rules were not affected by this Act or the RWWA Act; and
    - (ii) on and after the appointed day as if the rules were made and approved as rules of wagering under section 120 of the RWWA Act.
- (2) Subject to subsection (5), the old Rules of Racing continue in force with such changes as are necessary on and after commencement day —
- (a) to the extent that the rules deal with matters of racing, as if the rules were made by RWWA as Rules of Thoroughbred Racing under section 45 of the RWWA Act; and
  - (b) to the extent that the rules deal with totalisators on racecourses —
    - (i) before the appointed day as if the rules were not affected by this Act or the RWWA Act; and
    - (ii) on and after the appointed day as if the rules were made and approved as rules of wagering under section 120 of the RWWA Act.
- (3) Subject to subsection (5), the old Greyhound Racing Rules continue in force with such changes as are necessary on and after commencement day —
- (a) to the extent that the rules relate to racing, as if the rules were made by RWWA as Rules of Greyhound Racing under section 45 of the RWWA Act; and
  - (b) to the extent that the rules deal with totalisators on racecourses —
    - (i) before the appointed day as if the rules were not affected by this Act or the RWWA Act; and
    - (ii) on and after the appointed day as if the rules were made and approved as rules of wagering under section 120 of the RWWA Act.
- (4) A reference in the RWWA Act to the rules of racing or the rules of wagering includes a reference to the rules in force under this section.

- (5) The rules continued in force under subsections (1), (2) and (3) expire 12 months after the coming into operation of this section, or on a day fixed by order of the Minister published in the *Gazette*, whichever is the earlier day.
- (6) Nothing in this section affects the operation of sections 36, 37 and 38 of the RWWA Act.
- (7) To the extent that the rules continued in force under this section confer functions and powers solely on a principal club or a controlling authority, on and after commencement day those functions are to be carried out and powers are to be exercised by RWWA.

**12. Licences, permits, approvals and registrations**

- (1) In this section —  
“**authorisation**” means —
  - (a) a licence to train;
  - (b) a licence of a bookmaker;
  - (c) a licence of a driver;
  - (d) a licence of a trainer;
  - (e) a licence of a stablehand;
  - (f) a licence of a studmaster or artificial breeding technician;
  - (g) a permit to train;
  - (h) registration of a racing club;
  - (i) registration as a driver, trainer, owner, stable hand, bookmaker or bookmaker’s clerk;
  - (j) registration of a horse, foal, stud or sire (or for a certificate of service) or of any transfer, lease or cancellation of lease of a horse;
  - (k) registration of a syndicate;
  - (l) registration of colours;
  - (m) any other licence, permit, approval or registration.
- (2) Subject to the RWWA Act, any authorisation given or issued under —
  - (a) the old Greyhound Racing Rules;
  - (b) the old Rules of Harness Racing;
  - (c) the by-laws of the Western Australian Trotting Association under the *Western Australian Trotting Association Act 1946*; or
  - (d) the old Rules of Racing,

and in force immediately before commencement day continues in force on and after commencement day as if it were given by RWWA under the RWWA Act.

**13. Appointment of stewards and other officials**

- (1) Subject to the RWWA Act and unless otherwise determined in writing by RWWA, any appointment of a steward or other racing official made under —
- (a) the old Greyhound Racing Rules;
  - (b) the old Rules of Harness Racing; or
  - (c) the old Rules of Racing,

and in force immediately before commencement day continues in force, with necessary changes but otherwise under and subject to the same terms and conditions, on and after commencement day as if it were made under the RWWA Act.

- (2) Nothing in —
- (a) the old Greyhound Racing Rules;
  - (b) the old Rules of Harness Racing; or
  - (c) the old Rules of Racing,

operates so as to prevent or restrict —

- (d) the continuation of the appointment of an employee of a racing club as a steward or other racing official for the purposes of the RWWA Act; or
- (e) the appointment by RWWA of an employee of a racing club as a steward or other racing official for the purposes of the RWWA Act.

**14. Race meetings**

On and after commencement day a date or time for a race meeting that has been fixed by or under —

- (a) the old Greyhound Racing Rules;
- (b) the old Rules of Harness Racing;
- (c) the by-laws of the Western Australian Trotting Association under the *Western Australian Trotting Association Act 1946*; or
- (d) the old Rules of Racing,

and in force immediately before commencement day, is to be taken to be the date or time of the race meeting as if it had been fixed by RWWA under the RWWA Act.

**15. Appeals**

- (1) Any appeal under —



- (a) the old Greyhound Racing Rules;
- (b) the old Rules of Harness Racing;
- (c) the by-laws of the Western Australian Trotting Association under the *Western Australian Trotting Association Act 1946*; or
- (d) the old Rules of Racing,

that has been commenced but not completed immediately before commencement day, is taken to be an appeal against a decision of RWWA.

- (2) A right of appeal under —
  - (a) the old Greyhound Racing Rules;
  - (b) the old Rules of Harness Racing;
  - (c) the by-laws of the Western Australian Trotting Association under the *Western Australian Trotting Association Act 1946*; or
  - (d) the old Rules of Racing,

that is in existence but has not been exercised immediately before commencement day, is taken to be a right of appeal against a decision of RWWA.

**16. TAB Sports Betting Account**

- (1) On commencement day, any funds standing to the credit of the TAB Sports Betting Account established under section 28A(2)(d) of the TABB Act are to be credited to the Sports Wagering Account referred to in section 110A of the *Gaming Commission Act 1987*, and the TAB Sports Betting Account is then to be closed.
- (2) If in an agreement, instrument or other document there is a reference to the TAB Sports Betting Account, that reference is, unless the context otherwise requires, to be read or to have effect on and after commencement day as if it were a reference to the Sports Wagering Account.

**17. Sports Betting Promotion Account**

- (1) On commencement day, any funds standing to the credit of the Sports Betting Promotion Account referred to in section 28A(2)(c) of the TABB Act are to be credited to an account established under section 88 of the RWWA Act, and the Sports Betting Promotion Account is then to be closed.
- (2) If in an agreement, instrument or other document there is a reference to the Sports Betting Promotion Account, that reference is, unless the context otherwise requires, to be read or to have effect on and after

commencement day as if it were a reference to the account established under section 88 of the RWWA Act.

**18. Further transitional provisions may be made**

- (1) If there is no sufficient provision in this Part for dealing with a transitional matter, regulations under this Act may include any provision that is required, or that is necessary or convenient, for dealing with the transitional matter.
- (2) In subsection (1) —  
“**transitional matter**” means a matter that needs to be dealt with for the purpose of —
  - (a) effecting the transition from the provisions of the TABB Act to the provisions of the RWWA Act; or
  - (b) effecting the transition from the provisions of an Act amended by this Act as in force before this Act comes into operation to the provisions of that Act as in force after this Act comes into operation.
- (3) Regulations made under subsection (1) may provide that specific provisions of the RWWA Act or an Act amended by this Act —
  - (a) do not apply; or
  - (b) apply with specific modifications,to or in relation to any matter.
- (4) If regulations made under subsection (1) provide that a specified state of affairs is to be taken to have existed, or not to have existed, on and from a day that is earlier than the day on which the regulations are published in the *Gazette* but not earlier than the commencement day, the regulations have effect according to their terms.
- (5) In subsection (4) —  
“**specified**” means specified or described in the regulations.
- (6) If regulations contain a provision referred to in subsection (4), the provision does not operate so as —
  - (a) to affect in a manner prejudicial to any person (other than the State), the rights of that person existing before the day of publication of those regulations; or
  - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the day of publication of those regulations.

”

“

**19. Power to amend regulations**

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

”

<sup>11</sup> The *Racing and Gambling Legislation Amendment and Repeal Act 2003* Pt. 4 Div. 3 reads as follows:

“

**Division 3 — Transitional and savings provisions**

**Subdivision 1 — Preliminary**

**34. Intention**

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

**35. Definitions**

In this Part, unless the contrary intention appears —

“**TAB**” means the Totalisator Agency Board established by the TABB Act;

“**TABB Act**” means the *Totalisator Agency Board Betting Act 1960*.

**36. Application of *Interpretation Act 1984***

- (1) The provisions of the *Interpretation Act 1984* about the repeal of written laws and the substitution of other written laws for those so repealed (for example, sections 16(1), 36 and 38) apply to the repeal of the TABB Act in relation to that Act as if the RWWA Act repealed the TABB Act.
- (2) The provisions of this Division are additional to the provisions applied by subsection (1).

**Subdivision 2 — Devolution of the TAB’s assets and liabilities**

**37. Transfer of assets and liabilities to RWWA**

On and after the appointed day —

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

**38. Guarantees in respect of the TAB**

- (1) A guarantee under section 19 of the TABB Act as in force immediately before the appointed day is not affected by any provision of this Act, including without limitation the transfer of any liability of the TAB under section 37 to RWWA.
- (2) Any guarantee referred to in subsection (1) is to continue in force and is to be read and construed, on and from commencement day as if it were a guarantee of the liabilities of RWWA which have been vested or assumed in or by it.
- (3) The Treasurer may enter into any instrument confirming the continued liability of the State under a guarantee referred to in subsection (1).

- (4) By virtue of this subsection, any sum paid by the Treasurer under a guarantee referred to in subsection (1) constitutes a charge on the assets of RWWA.

**39. Exemption from State taxation**

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

**40. Registration of documents**

- (1) The relevant officials are to take notice of the provisions of this Division and are empowered to record and register in the appropriate manner the documents necessary to give effect to this Division.
- (2) Without limiting subsection (1), a statement in an instrument executed by RWWA that any estate or interest in land or other property has become vested in it is evidence of that fact.
- (3) In subsection (1) —  
“**relevant officials**” means the Registrar of Titles, the Registrar of Deeds, the Minister administering the *Land Administration Act 1997* and any other person authorised by a written law to record and give effect to the registration of documents relating to transactions affecting any estate or interest in land or any other property.

**41. Saving**

The operation of section 37 is not to be regarded —

- (a) as a breach of contract or confidence or otherwise as a civil wrong;
- (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities or the disclosure of information;
- (c) as giving rise to any remedy by a party to an instrument or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any assets, right or liability;
- (d) as causing any contract or instrument to be void or otherwise unenforceable; or
- (e) as releasing or allowing the release of any surety.

**Subdivision 3 — Staff**

**42. Transition of employment**

- (1) Any person who was in the employment of the TAB immediately before the appointed day continues, under and subject to the RWWA Act, as a member of staff of RWWA.
- (2) Except as otherwise agreed by a member of staff, the remuneration, existing or accrued rights, rights under a superannuation scheme or continuity of service of a member of staff of RWWA are not affected, prejudiced or interrupted by —
  - (a) the operation of subsection (1); or
  - (b) the TAB ceasing to be a non-SES organisation under the *Public Sector Management Act 1994*.
- (3) A person mentioned in subsection (1) is to be regarded as an employee of an organisation for the purposes of Part 6 of the *Public Sector Management Act 1994*, and RWWA is to be regarded as the employing authority for the purposes of that Part.
- (4) A person mentioned in subsection (1) who elects in writing to the Minister to be registered under Part 4 of the *Public Sector Management (Redeployment and Redundancy) Regulations 1994* is to be registered under that Part.
- (5) Subsections (3) and (4) cease to apply at the expiration of 2 years after the appointed day.
- (6) A person mentioned in subsection (1) is to be regarded as having been engaged under section 22 of the RWWA Act.

**Subdivision 4 — General transitional provisions**

**43. Annual report for part of a year**

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

**44. Completion of things commenced**

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

**45. Continuing effect of things done**

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

- (a) has any force; and
- (b) is not governed by section 37(f),

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

**46. Immunity to continue**

Despite the RWWA Act, where the TAB had the benefit of any immunity in respect of an act, matter or thing done or omitted before the appointed day, that immunity continues in that respect for the benefit of RWWA.

**47. Agreements and instruments generally**

- (1) This section applies to any agreement or instrument subsisting immediately before the appointed day that does not come within the provisions of section 37(c).
- (2) Any agreement or instrument to which this section applies —
  - (a) to which the TAB was a party; or
  - (b) which contains a reference to the TAB,has effect after the appointed day as if —
  - (c) RWWA were substituted for the TAB as a party to the agreement or instrument; and
  - (d) any reference in the agreement or instrument to the TAB were (unless the context otherwise requires) a reference to RWWA.

**48. Rules and regulations — continuation and expiry**

- (1) Subject to subsection (6), rules made by the TAB under the TABB Act that were in force immediately before the appointed day continue in force with such changes as are necessary on and after the appointed day as if they were rules of wagering made under section 120 of the RWWA Act.
- (2) Subsection (1) does not continue the operation of any rule that could not be made as a rule of wagering under section 120 of the RWWA Act or a regulation under section 121 of the RWWA Act.
- (3) Subject to subsection (6), regulations made under the TABB Act or continued under section 57(4) of the TABB Act that were in force immediately before the appointed day continue in force with such changes as are necessary on and after the appointed day as if they were regulations made under section 121 of the RWWA Act.
- (4) Subsection (3) does not continue the operation of any regulation that could not be made as a rule of wagering under section 120 of the RWWA Act or a regulation under section 121 of the RWWA Act.
- (5) A reference in the RWWA Act to the rules of wagering or regulations includes a reference to the rules or regulations in force under this section.
- (6) The rules and regulations continued in force under subsections (1) and (3) expire 12 months after the appointed day, or on a day fixed by order of the Minister published in the *Gazette*, whichever is the earlier day.

**49. TAB to perform necessary transitional functions**

- (1) Despite the repeal of the TABB Act by section 32 of this Act, the TAB continues in existence for the purpose of —
  - (a) reporting as required by section 43; and
  - (b) performing the functions described in section 37(g).
- (2) The accountable authority, as defined in the *Financial Administration and Audit Act 1985*, also continues in existence for the purpose described in subsection (1)(a).

”.

<sup>12</sup> The amendments in the *Statutes (Repeals and Minor Amendments) Act 2003* s. 118(2) and (3) are not included because the section it sought to amend had been replaced before the amendment purported to come into operation.