

Reprinted under the
Reprints Act 1984 as
at 17 August 2001

Western Australia

Racecourse Development Act 1976

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Defined Terms



Western Australia

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Racecourse Development Act 1976

An Act to establish a Racecourse Development Trust and to make provision for a Racecourse Development Trust Fund for the purposes of assisting racing clubs and allied bodies in improving facilities provided by those clubs and bodies, and for incidental and other purposes.

[Long title amended by No. 26 of 1990 s. 4; No. 19 of 1998 s. 4.]

1. Short title

This Act may be cited as the *Racecourse Development Act 1976*¹.

2. Commencement

The provisions of this Act shall come into operation on a date to be fixed by proclamation¹.

3. Interpretation

In this Act unless contrary intention appears —

“**allied body**” means a body that provides facilities, including training facilities, that are integral to the galloping horse racing industry (“**allied body (galloping)**”) or the trotting horse race industry (“**allied body (trotting)**”);

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

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

“Fund” means the Racecourse Development Trust Fund established and maintained by this Act;

“racing club” means —

- (a) the Club or the Association; or
- (b) a body which conducts galloping or trotting horse races and which is registered with the Club or the Association;

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

“the TAB” means the body constituted under section 5 of the *Totalisator Agency Board Betting Act 1960*;

“Treasurer” means the Treasurer of the State, and includes any other Minister of the Crown for the time being acting as the Treasurer of the State;

“Trust” means the Racecourse Development Trust constituted by this Act.

[Section 3 amended by No. 26 of 1990 s. 5; No. 11 of 1992 s. 66; No. 19 of 1998 s. 5.]

4. Racecourse Development Trust

- (1) For the purposes of this Act a body to be known as the Racecourse Development Trust shall be established.
- (2) The members of the Trust are —
 - (a) one person appointed by the Minister to be chairman of the Trust;
 - (b) one person appointed by the Minister;
 - (c) the chief executive officer of the Office of Racing and Gaming² or a person nominated in writing by the chief executive officer;
 - (d) one person jointly nominated by the bodies known as Western Australian Provincial Thoroughbred Racing Association and the Country Racing Association and

appointed by the Minister to represent country racing interests;

- (e) one person nominated by the Club and appointed by the Minister to represent metropolitan racing interests;
- (f) one person nominated by The West Australian Country Trotting Association and appointed by the Minister to represent country trotting interests; and
- (g) one person nominated by the Western Australian Trotting Association and appointed by the Minister to represent metropolitan trotting interests.

(2a) The members appointed under subsection (2)(a), (b), (d), (e), (f) and (g) are referred to in this Act as “appointed members of the Trust”.

(2b) A nomination for the purposes of subsection (2)(c) may be made from time to time and may be expressed to operate for a period or in such circumstances as are specified in the instrument of nomination.

(3) Subject to this Act, the appointed members of the Trust shall hold office for such terms not exceeding 3 years as are specified in the respective instruments of their appointment, but shall be eligible for reappointment.

[(4) *repealed*]

(5) The Minister may —

- (a) appoint persons to be deputies of the members referred to in subsection (2)(b) and (c); and
- (b) appoint persons nominated for that purpose by the bodies referred to in subsection (2)(d), (e), (f) and (g) to be the deputies of the members referred to in subsection (2)(d), (e), (f) and (g) respectively,

and at any meeting of the Trust at which a member is not present, the deputy of the member may exercise all the powers and functions of the member.

- (6) A body eligible to nominate a person for appointment under subsection (2)(d), (e), (f) or (g) or subsection (5)(b) shall make such a nomination, in writing, when requested to do so by the Minister.
- (7) Where a body fails to nominate a person as required under subsection (6) within 30 days after receiving a request in writing from the Minister, the Minister may appoint an eligible person as a member or deputy, as the case requires, and the person so appointed shall be deemed for all purposes to have been appointed on the nomination of that body.
- (7a) In subsection (7) “**eligible person**” means a person who in the opinion of the Minister has a knowledge of the interests referred to in subsection (2)(d), (e), (f) or (g).
- (8) Appointed members of the Trust and the deputies of those members may be paid such fees and allowances as are from time to time determined by the Governor.

[Section 4 amended by No. 66 of 1988 s. 4; No. 26 of 1990 s. 6; No. 19 of 1998 s. 6(1).]

5. Vacancies, etc.

- (1) The office of an appointed member of the Trust shall become vacant if —
 - (a) he is absent, except with leave of the Minister, from 4 consecutive meetings of the Trust;
 - (b) he resigns his office by writing under his hand served on the Minister;
 - (c) the body by whom or which he was nominated for appointment requests the Minister in writing to terminate his appointment; or
 - (d) he dies,

and the Minister shall appoint another person nominated, in the case of an office referred to in section 4(2)(d), (e), (f) or (g), for

appointment by the appropriate body to that office to hold office for the remainder of the term of office of the person in whose place he is appointed.

- (2) The provisions of section 4(3) and subsection (1)(b), (c) and (d) of this section apply to and in relation to the deputies of members of the Trust as if they were members of the Trust.

[Section 5 amended by No. 66 of 1988 s. 5; No. 26 of 1990 s. 7.]

6. Meetings of the Trust

- (1) The Trust shall hold such meetings as are necessary for the purposes of discharging its functions under this Act.
- (2) The Chairman may at any time convene a meeting of the Trust, and shall convene a meeting of the Trust when so directed by the Minister.

- (3) At any meeting of the Trust —

- (a) the Chairman, if present, shall preside, but if the Chairman is not present, the members present at the meeting shall appoint one of their number to preside at the meeting;
- (b) 4 members form a quorum;
- (c) all questions arising at the meeting shall be decided by a majority of the votes of the members present;
- (d) each member shall be entitled to one vote; and
- (e) in the event of an equality of votes the Chairman or other person presiding shall also have a casting vote.

- (3a) Notwithstanding subsection (3) —

- (a) when the Trust is considering a matter that only relates to a racing club that conducts trotting horse races, or to an allied body (trotting), or to trotting horse racing generally, a member appointed under section 4(2)(d) or (e) —

- (i) is not to be counted for the purposes of subsection (3)(c); and

- (ii) is not entitled to take part in the deliberations on the matter or to vote on the matter; and
- (b) when the Trust is considering a matter that only relates to a racing club that conducts galloping horse races, or to an allied body (galloping), or to galloping horse racing generally, a member appointed under section 4(2)(f) or (g) —
 - (i) is not to be counted for the purposes of subsection (3)(c); and
 - (ii) is not entitled to take part in the deliberation on the matter or to vote on the matter.
- (4) Subject to this Act the Trust may regulate its procedure in such manner as it thinks fit, but shall cause minutes to be kept of its proceedings and shall, when so requested by the Minister, furnish to the Minister minutes of its proceedings at any meeting.
- (5) The powers of the Trust are not affected by any vacancy in the membership of the Trust, and if a quorum is present all acts and proceedings of the Trust are valid and effectual, notwithstanding the vacancy.
- (6) All acts and proceedings of the Trust are, notwithstanding any defect in the appointment of any member of the Trust or deputy thereof, or that any such member or deputy was disqualified or not entitled to act, as valid as if the member or the deputy had been duly appointed and was qualified to act and had acted, as a member or deputy, and as if the Trust had been duly and fully constituted.

[Section 6 amended by No. 66 of 1988 s. 6; No. 26 of 1990 s. 8; No. 19 of 1998 s. 7.]

7. Trust to be body corporate

- (1) The Trust shall be —
 - (a) a body corporate with perpetual succession and a common seal; and

- (b) capable in law in its corporate name of suing and being sued and of doing and suffering all things that bodies corporate may do and suffer.
- (2) All courts, judges and persons acting judicially shall take judicial notice of the seal of the Trust affixed to any document and shall presume that it was duly affixed.

7A. Directions by the Minister

- (1) The Minister may give directions in writing to the Trust with respect to its functions and powers, either generally or with respect to a particular matter, and the Trust subject to subsection (2) shall give effect to any such direction.
- (2) The power to give directions under subsection (1) does not include the power for the Minister, to give directions for specific works to be carried out.

[Section 7A inserted by No. 26 of 1990 s. 9.]

7B. Directions by the Trust

- (1) Trust may give directions to a racing club or allied body to carry out works to improve safety at a racecourse or training track and that racing club or allied body shall give effect to any such direction.
- (2) A direction may be given to a racing club or allied body under subsection (1) whether or not an application for assistance by that racing club or allied body is being considered, or has been granted, by the Trust.
- (3) For the purposes of subsection (1) the Trust may —
 - (a) call for submissions from jockeys and reinsmen or reinswomen as to safety issues; and
 - (b) consider safety issues raised by jockeys and reinsmen or reinswomen.

[Section 7B inserted by No. 26 of 1990 s. 9; amended by No. 19 of 1998 s. 11(1).]

8. Administration

There shall be appointed under and subject to Part 3 of the *Public Sector Management Act 1994* such officers and other employees as are necessary for the purpose of assisting in the administration of this Act.

[Section 8 inserted by No. 26 of 1990 s. 10; amended by No. 32 of 1994 s. 3(2).]

8A. Consultants etc.

- (1) The Trust may, with the approval of the Minister, engage under a contract for services or other arrangement any consultant or person to provide administrative, professional, technical or other assistance as it considers necessary to enable the Trust to perform its functions.
- (2) The engagement of a person under subsection (1) does not —
 - (a) render Part 3 of the *Public Sector Management Act 1994*, or any Act applying to persons as officers of the Public Service of the State, applicable to that person; or
 - (b) affect or prejudice the application to him of those provisions if they applied to him at the time of his engagement.

[Section 8A inserted by No. 26 of 1990 s. 10; amended by No. 32 of 1994 s. 3(2).]

9. Members of Trust, etc. not personally liable

A person who is or has been a member of the Trust, a deputy of such a member a secretary or member of the staff of the Trust, a person engaged under section 8A(1) or an officer, employee or agent of the TAB performing services on behalf of the Trust shall not be personally liable for anything done or omitted to be done in good faith in or in connection with the exercise or

purported exercise of any power conferred, or the carrying out of any duty imposed, by, or arising under this Act.

[Section 9 amended by No. 66 of 1988 s. 8; No. 26 of 1990 s. 11; No. 11 of 1992 s. 67.]

10. Racecourse Development Trust Fund

(1) There shall be established and maintained at the Treasury, forming part of the Trust Fund constituted under section 9 of the *Financial Administration and Audit Act 1985*, a trust fund which shall be known as the Racecourse Development Trust Fund.

(2) There shall be credited to the Fund —

[(a) deleted]

(b) by the TAB, moneys payable under section 23A(2)(a) and section 24C of the *Totalisator Agency Board Betting Act 1960*;

[(c) deleted]

(d) all moneys being repayments of loans made from the Fund to racing clubs or allied bodies;

(e) all moneys paid by way of interest charged on or in connection with loans made from the Fund to racing clubs or allied bodies;

(f) income from the investment of moneys standing to the credit of the Fund pursuant to subsection (5);

(g) any other moneys lawfully payable to the credit of the Fund; and

(h) any moneys, being grants, bequests or donations, made to the Fund.

[(3) and (4) repealed]

(5) Any moneys standing to the credit of the Fund, until required for the purposes of this Act, may be temporarily invested at the

s. 10A

request of the Trust by the Treasurer in any securities approved by the Treasurer.

[Section 10 amended by No. 66 of 1988 s. 9; No. 26 of 1990 s. 12; No. 11 of 1992 s. 68; No. 49 of 1996 s. 64; No. 19 of 1998 s. 11(2); No. 40 of 1999 s. 37.]

10A. Allocation of moneys in the Fund

- (1) The moneys standing to the credit of the Fund shall be administered in 2 allocations namely —
 - (a) the racing allocation; and
 - (b) the trotting allocation.
- (2) A loan or grant made under section 11(1)(a) or (ba) to a racing club that conducts galloping horse races, or to an allied body (galloping), shall be made from the racing allocation.
- (3) A loan or grant made under section 11(1)(a) or (ba) to a racing club that conducts trotting horse races, or to an allied body (trotting), shall be made from the trotting allocation.
- (4) After allowing for costs and expenses under section 11(1)(b) and (c) moneys credited to the Fund during a racing year under section 10(2)(b), (f), (g) or (h) shall be allocated to the racing allocation and the trotting allocation in the same proportion as the Board pays the balance of its funds to the Club and Association under section 28(1) of the *Totalisator Agency Board Betting Act 1960* in respect of that racing year.
- (5) Moneys credited to the Fund under section 10(2)(d) or (e) shall be allocated to the racing allocation or to the trotting allocation according to whether the loan to which they relate was made to —
 - (a) a racing club that conducts galloping horse races or an allied body (galloping); or

- (b) a racing club that conducts trotting horse races or an allied body (trotting).

[Section 10A inserted by No. 66 of 1990 s. 13; amended by No. 49 of 1996 s. 64; No. 19 of 1998 s. 8.]

11. Application of Fund

- (1) The Fund shall be administered by the Trust and the moneys standing to the credit of the Fund may be applied by the Trust in accordance with section 10A for —
 - (a) making loans or grants to racing clubs or allied bodies, where the Trust is of opinion that the moneys loaned or granted will be used by the recipient for a purpose or purposes considered desirable by the Trust, including —
 - (i) the provision of new facilities or the improvement of existing facilities on a racecourse or training track;
 - (ii) the establishment of a new racecourse or training track;
 - (iii) the discharge or reduction of any existing loan previously obtained by the racing club or allied body;
 - (iv) assisting a racing club or allied body to conduct its affairs during periods of financial difficulty;
 - (b) meeting the costs and expenses incurred by the Trust in engaging any consultant or person under section 8A;
 - (ba) making loans or grants to racing clubs or allied bodies for the purpose of enabling or assisting them to give effect to directions given under section 7B(1);
 - (c) meeting the costs and expenses of the administration of this Act.
- (2) A loan or grant made to a racing club or allied body under subsection (1)(a) may be made for part or all of an amount requested by the racing club or allied body.

- (3) A loan or grant made to a racing club or allied body under subsection (1) may be made subject to such terms and conditions as the Trust thinks fit, including a loan or grant that is only required to be repaid if —
- (a) property of the club or body specified by the Trust is disposed of; or
 - (b) the club or body, in the opinion of the Trust, has ceased to carry on the activity or function for which the loan or grant was made.
- (4) Where a racing club or allied body —
- (a) fails to comply with the terms and conditions subject to which any loan or grant has been made under subsection (1); or
 - (b) fails to comply with a direction with respect to which a loan or grant has been made under subsection (1)(ba),
- the Trust may by notice in writing given to the racing club or allied body —
- (c) vary the terms and conditions to which the loan or grant is subject; or
 - (d) demand that all or part of the amount granted or all or part of the outstanding balance of the amount of the loan (including interest and other charges) be repaid immediately.
- (5) Any sum demanded under subsection (4)(d) is recoverable in a court of competent jurisdiction as a debt due to the Trust.

[Section 11 amended by No. 66 of 1988 s. 10; No. 26 of 1990 s. 14; No. 49 of 1996 s. 64; No. 19 of 1998 s. 9 and 11.]

12. Representatives of racing clubs entitled to appear before Trust

Before the Trust —

- (a) gives a direction to a racing club or allied body under section 7B(1);

- (b) makes a loan or grant to a racing club or allied body under section 11(1); or
- (c) gives a notice to a racing club or allied body under section 11(4),

the Trust shall afford a representative, nominated by the racing club or allied body for the purpose, a reasonable opportunity to appear at and be heard before a meeting of the Trust with respect to the matter.

[Section 12 inserted by No. 26 of 1990 s. 15; amended by No. 19 of 1998 s. 11(1); No. 24 of 2000 s. 36.]

13. Application, security for loans, etc.

The Trust may —

- (a) require any club or body making application for a loan or grant to complete such form or forms of application as the Trust specifies and to support the application with such certificates, plans, statements or quotations as the Trust specifies;
- (b) require the Club or the Association, as the case may be, to certify as to —
 - (i) the accuracy of any details shown in an application made by a racing club or allied body including details in any certificate, plan, statement or other document relating to the application;
 - (ii) the state of progress of work done in respect to the purpose for which a loan or grant was or is being made;

and

- (c) before making any loan to a club or body, require the club or body to execute such form of security to secure the due repayment of the loan and interest accruing

thereon as the Trust considers appropriate in all the circumstances.

[Section 13 amended by No. 19 of 1998 s. 10 and 11(1).]

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

[Section 14 inserted by No. 98 of 1985 s. 3.]

15. Regulations

- (1) The Trust may, with the approval of the Governor, make all such regulations as may be necessary or expedient for giving effect to the objects of this Act.
- (2) Without affecting the generality of the powers conferred by subsection (1), regulations may be so made requiring racing clubs or allied bodies which have received any loan or grant under this Act to permit the Trust, or any member of the Trust or other person authorised for the purpose by the Trust, to inspect —
 - (a) any facilities or works in respect of which such a loan or grant was made; and
 - (b) any books of account of such a racing club or allied body.

[Section 15 amended by No. 19 of 1998 s. 11.]

16. Review of Act

- (1) The Minister shall carry out a review of the operation and effectiveness of this Act as soon as is practicable after the expiration of 5 years from the commencement of this section, and in the course of that review the Minister shall consider and have regard to —
- (a) the effectiveness of the operations of the Trust;
 - (b) the need for the continuation of the functions of the Trust; and
 - (c) such other matters as appear to the Minister to be relevant to the operation and effectiveness of this Act.⁵
- (2) The Minister shall prepare a report based on the review made under subsection (1) and shall, as soon as is practicable after its preparation, cause the report to be laid before each House of Parliament.

[Section 16 inserted by No. 26 of 1990 s. 16.]



Racecourse Development Act 1976

Notes

- ¹ This reprint is a compilation as at 17 August 2001 of the *Racecourse Development Act 1976* and includes the amendments made by the other written laws referred to in the following table.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Racecourse Development Act 1976</i>	72 of 1976	6 Oct 1976	31 Dec 1976 (see s. 2 and <i>Gazette</i> 31 Dec 1976 p. 5127)
<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 (Racing Industry) Act 1988 Pt. 2</i>	66 of 1988	22 Dec 1980	22 Dec 1988 (see s. 2(3))
<i>Racecourse Development Amendment Act 1990³</i>	26 of 1990	27 Sep 1990	1 Feb 1991 (see s. 2 and <i>Gazette</i> 25 Jan 1991 p. 267)
<i>Acts Amendment and Repeal (Betting) Act 1992 Pt. 5</i>	11 of 1992	16 Jun 1992	31 Jul 1992 (see s. 2 and <i>Gazette</i> 31 Jul 1992 p. 3735)
<i>Acts Amendment (Public Sector Management) Act 1994 s. 3(2)</i>	32 of 1994	29 Jun 1994	1 Oct 1994 (see s. 2 and <i>Gazette</i> 30 Sep 1994 p. 4948)
<i>Financial Legislation Amendment Act 1996 s. 64</i>	49 of 1996	25 Oct 1996	25 Oct 1996 (see s. 2(1))
<i>Racecourse Development Amendment Act 1998⁴</i>	19 of 1998	26 Jun 1998	26 Jun 1998 (see s. 2)
<i>Acts Amendment (Fixed Odds Betting) Act 1999 Pt. 4</i>	40 of 1999	16 Nov 1999	15 Jan 2000 (see s. 2 and <i>Gazette</i> 14 Jan 2000 p. 153)
<i>Statutes (Repeals and Minor Amendments) Act 2000 s. 36</i>	24 of 2000	4 Jul 2000	4 Jul 2000 (see s. 2)

- ² Now known as Department of Racing, Gaming and Liquor.

³ The *Racecourse Development Amendment Act 1990* s. 17 reads as follows:

“

17. Transitional

Moneys in the Racecourse Development Trust Fund may be applied in accordance with section 11 of the principal Act as amended by section 14 of this Act notwithstanding that the moneys were paid into the Fund before the commencement of this Act.

”

⁴ The *Racecourse Development Amendment Act 1998* s. 6(2) reads as follows:

“

- (2) The amendment made by subsection (1) does not affect an appointment of a member of the Trust holding office under section 4(2)(d) of the principal Act at the commencement of this Act.

”

Defined Terms

Defined Terms

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

Defined Term	Provision(s)
allied body	3
allied body (galloping)	3
allied body (trotting).....	3
Association	3
Club	3
eligible person	4(7a)
Fund	3
racing club	3
racing year	3
the TAB	3
Treasurer.....	3
Trust	3