

Western Australia

**The Western Australian Turf Club Act
1892**

The Western Australian Turf Club Act 1892

CONTENTS

1.	Short title	4
2.	Interpretation	4
3.	Actions to be in the name of the chairman	4
4.	Memorial of the chairman's name to be recorded in the Supreme Court	5
5.	No action to be brought until memorial is recorded	6
6.	Effect of judgment against the chairman	6
7.	Racecourse vested in chairman for term created by Crown Grant of 11 September 1877	7
8.	Crown may demise lands to chairman	7
9.	Lands and other property to be vested in chairman	7
10.	Lands vested in chairman to be held for racecourse only	8
11.	Lands already demised to be held for purpose of a racecourse	8
12.	Committee may maintain buildings already erected and erect others	9
13.	By-laws	9
21.	Obstructing officers, etc., of committee or trespassing upon racecourse	11
22.	Transient offender may be arrested	11
23.	Liability to penalty not to relieve from other liabilities	11
24.	Committee may fix tolls and charges	12
25.	Chairman may let lands buildings or tolls	12
26.	Borrowing powers	12
28.	Power to give security	13

Contents

29.	Transfer of mortgage	13
30.	Rights of mortgagees	14
31.	Arrears of interest when to be enforced by appointment of receiver	14
32.	Appointment of receiver	14
33.	Commissioner of Crown Lands may authorise inspection of racecourse and buildings	15
34.	Commissioner of Crown Lands may give notice to repair, etc.	15
35.	Service of notice	16
36.	Committee to repair, etc., upon notice	16
37.	Officers to give security	16
38.	Accounts to be kept	16
39.	Appointment of auditors	16
40.	Books to be balanced and audited	17
41.	Copy of annual account to be submitted to chief executive officer	17
41A.	Inspection of annual account	17
42.	Club not to be incorporated	17
43.	If racecourse not maintained and used land to revert to the Crown	18
44.	Building to be paid for if possession re-resumed	18
45.	Saving of rights	19
	First Schedule	20
	Notes	
	Compilation table	21

The Western Australian Turf Club Act 1892

An Act to enable the Members of ‘The Western Australian Turf Club’ to sue and be sued in the name of the Chairman for the time being of the Committee of the said Club and for other purposes.

Preamble

Whereas by deed poll or grant from the Crown dated 11 September 1877 Her Majesty demised and leased unto Alfred Robert Waylen Walter Padbury and Stephen Henry Parker (thereinafter and hereinafter referred to as ‘**the Lessees**’) their executors administrators and allowed assigns All that tract or parcel of land situate and being in the District of Swan in the Colony of Western Australia containing 105 acres more or less and marked and distinguished in the Maps and Books of the Survey Office of the said Colony as No. 823 Perth Racecourse Bounded on the South-west by about 43 chains 80 links of the North-east boundary of Swan Location 33 extending South-east from left bank of Swan River through centre of a certain blue gum tree marked [] on its River side and [] on its Land side about 75 links South-east from said bank through a squared and pointed post and terminating at centre of a similar post about 7 chains 80 links farther South-east On the South-east by a line about 22 chains 94 links in length extending North 54 degrees East from post last aforesaid to another squared and pointed post and then by a line about 5 chains 56 links in length extending North 59 degrees 36 minutes East to another similar post On the East by a line about 18 chains 20 links in length extending North 22 degrees 10 minutes West to left bank of the Swan River through centre of a squared and pointed post about one chain 90 links South-east from said bank And on the North by left bank aforesaid between North end of the East and South-west boundaries all bearings and boundaries being true or thereabouts Excepting and reserving to Her Majesty her heirs and successors or for any person or persons acting in that behalf by her or their authority full

s. 1

power during the term thereby granted from time to time and at all times thereafter to resume and enter upon possession of any part of the said piece or parcel of land which it might at any time by Her Majesty her heirs and successors be deemed necessary to resume for making roads canals bridges towing paths or other works of public utility or convenience To have and to hold the premises thereby demised except as aforesaid and subject to the powers reservations and conditions therein and in certain Regulations for the sale letting disposal and occupation of the Waste Lands of the Crown within the said Colony contained unto the said Lessees their executors administrators and allowed assigns for the term of 999 years to be computed from 1 September 1877 Yielding and paying therefor one peppercorn of yearly rent on 21 March in each year or so soon thereafter as the same should be lawfully demanded In trust for certain persons then associated together under the name or style of The Western Australian Turf Club and for such other persons as might from time to time during the said term be recognized by the Governor of the said Colony for the time being as forming The Western Australian Turf Club And by the said deed poll it is expressly provided that the said piece or parcel of land should during the said term be used as a place of public enjoyment and especially for the training and running of Race Horses and other purposes connected therewith and in accordance with the Rules and Regulations of The Western Australian Turf Club for the time being And that a Race Meeting should be held upon the said land at least once in every year And that pedestrians should be admitted on the said land (with the exception of such portions thereof as might be reserved with the approval of the Commissioner of Crown Lands) during such Race Meeting free of charge or on payment of such charges as might from time to time be approved by the Governor And provided further that it should at any time be lawful for the persons appointed by the said Club as Stewards of the said Races to turn off the said land any persons who might be found injuring the said land or any property thereon or violating the Rules of the Club for the time being or behaving in a riotous or unbecoming manner And provided further that persons on horseback and also carriages should be admitted to such Race Meeting on payment of such charges as might be authorised in that behalf by the Governor of the said Colony for the time being And also that if at any time during the said term the said piece or parcel of land should cease to

be so used or if Race Meetings should not be held and persons whether on foot or horseback or in carriages should not be admitted as aforesaid then and in every such case it should be lawful for Her Majesty her heirs and successors and for any person or persons acting in her or their behalf into and upon the said demised premises or any part thereof in the name of the whole to re-enter and the same to have again re-possess and enjoy as if the said deed poll had not been executed Provided also that the Governor for the time being of the said Colony should have power from time to time to nominate in writing any person or persons to supply the place of any Trustee or Trustees for the time being of the said deed poll who should die or disclaim or be unable or unfit to act or desire to retire from the office and on every such appointment that the necessary assurances should be executed for vesting the said land and premises in the new and old Trustees or in the new Trustees solely as the case might be And whereas with the consent of the said Trustees the Committee of the Western Australian Turf Club have now the control and management of the said land and premises and the Course and buildings thereon And whereas the said Club have expended very considerable sums of money in improving the said Course and in erecting improving and maintaining divers good and substantial buildings erections and fences thereon and the Club proposes from time to time to expend still further sums of money in further improving the said Course and erecting additional buildings thereon And whereas for the management of the affairs of the said Club and the better maintenance and control of the said Racecourse and the buildings now or hereafter to be erected thereon it is desirable that the said Club should be entrusted with the care maintenance and control of the said Racecourse and buildings and that all such powers and authorities as may be necessary or expedient for that purpose should be conferred upon the said Club

Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia in this present Parliament assembled and by the authority of the same as follows:

s. 1

1. Short title

This Act may be cited for all purposes as *The Western Australian Turf Club Act 1892*¹.

2. Interpretation

In this Act:

The term “**club**” means The Western Australian Turf Club.

The term “**committee**” means the committee for the time being of the club.

The term “**chairman**” means the person who is the chairman for the time being of the committee.

The term “**justice**” means a Justice of the Peace acting in and for the colony of Western Australia or in and for the city borough or session district where the matter requiring the cognizance of such justice shall arise.

The term “**building**” means any house outhouse stand booth stable shed tent fence or other buildings railways and tramways edifice or erection of any description whatsoever for the time being standing or being upon any land for the time being vested under or by virtue of this Act in the chairman.

3. Actions to be in the name of the chairman

All actions suits and proceedings at law or in equity to be commenced instituted prosecuted or carried on by or on behalf of the club or wherein the club is or shall be in any way concerned against any person or persons body or bodies politic or corporate whether a member or members of the club or otherwise shall and may be lawfully commenced instituted and prosecuted or carried on in the name of the chairman at the time any such action suit or proceeding shall be commenced or instituted as the nominal plaintiff complainant or petitioner for and on behalf of the club and all actions suits and proceedings as aforesaid to be commenced instituted or prosecuted against

the club or any of the members thereof as such shall be commenced instituted and prosecuted against the chairman as the nominal defendant for and on behalf of the club or members and in all indictments and informations it shall be lawful to state the property of the club to be the property of such chairman and any offence committed with intent to injure or defraud the club shall and lawfully may in any prosecution for the same be stated or laid to have been committed with intent to injure or defraud the chairman and any offender or offenders may thereupon be lawfully convicted of any such offence and in all other allegations or indictments informations or other proceedings it shall and may be lawful and sufficient to state the name of such chairman and the death resignation or removal or other act of such chairman shall not abate any such action suit or prosecution but the same may be continued where it left off and prosecuted and concluded in the name of any person who may be or may become chairman Provided always that nothing herein contained shall interfere with or affect any action suit prosecution or other proceeding commenced before the passing of this Act but the same shall be continued as if this Act had not been passed.

4. Memorial of the chairman's name to be recorded in the Supreme Court

A memorial of the names of the chairman and of each of the members of the committee respectively in the form or to the effect set forth in the First Schedule signed by such chairman and by a majority of the committee shall be recorded upon oath in the Supreme Court of the State of Western Australia within one calendar month after the passing of this Act and when and so often as any chairman or member of committee shall be newly elected a memorial of the name of such newly elected chairman or member in the same form and to the same effect as the above-mentioned memorial signed by such newly elected chairman or member and by a majority of the committee at the time of such election shall in like manner be recorded upon oath in the said Supreme Court within one calendar month next after

s. 5

every such chairman or member shall be elected and for all purposes whatsoever the production of the memorial recorded as by this Act directed or of an office or examined copy thereof shall be received as sufficient and conclusive evidence in all courts of justice or before any person having by law or by consent of parties authority to receive evidence of all the matters contained or set forth in such memorial and that the members of committee who signed such memorial formed a majority of the committee at the respective times aforesaid nor shall any proof be required of the authority of the person before whom the oath verifying the said memorial shall appear to have been sworn to administer such oath.

5. No action to be brought until memorial is recorded

Until such memorial as hereinbefore first mentioned shall be recorded in the manner herein directed no action suit or other proceeding shall be brought by the club or any of the members thereof in the name of the chairman of the committee of the club under the authority of this Act.

6. Effect of judgment against the chairman

- (1) Every judgment and every decree or order which shall be at any time after the passing of this Act obtained against the chairman on behalf of the club shall and may take effect and be enforced and execution thereon be issued against the property and effects of the club save and except the land by this Act vested in the chairman and his successors in office and any land hereafter demised to the chairman under or by virtue of this Act.
- (2) Subsection (1) does not limit the rights of any person to whom security has been given over —
 - (a) the land referred to in section 7; or
 - (b) land demised under section 8,

if the Governor has under section 28(2) or the *Western Australian Turf Club (Property) Act 1944* consented to the giving of the security.

[Section 6 amended by No. 24 of 1997 s. 4.]

7. Racecourse vested in chairman for term created by Crown Grant of 11 September 1877

From and after the passing of this Act the said Alfred Robert Waylen Walter Padbury and Stephen Henry Parker and their respective executors administrators and assigns or other the trustees of the said land at the time of the passing of this Act shall cease to have or hold any estate or interest in the land described in and demised by the said grant from the Crown dated 11 September 1877 and the said land is hereby without the necessity for any conveyance or other connecting title than this Act vested in the chairman and his successors in such office in trust for the club and in the like manner as if such chairman and his respective successors in such office were in law a corporation sole and shall henceforth be held by such chairman and his successors in office for the term and upon and for the trusts intents and purposes and with under and subject to the powers provisos and declarations in the said grant limited expressed declared and contained of and concerning the said land or such of them as are now subsisting or capable of taking effect.

8. Crown may demise lands to chairman

It shall be lawful for Her Majesty from time to time to demise to the chairman for any term of years in trust for the club and for such chairman and his successors in office to hold by such demise from Her Majesty for the purposes of this Act the said land by the last preceding section vested in the chairman and his successors in office and such other lands in Western Australia either contiguous thereto or otherwise as the Governor in Council may think fit.

9. Lands and other property to be vested in chairman

All lands tenements and hereditaments real and personal and all personal chattels and effects which now are vested in or held by

s. 10

any persons or person whomsoever in trust for or for the benefit of the club or the members thereof shall immediately upon the passing of this Act become and be vested in and be held by the chairman and his successors in such office in trust for the club and in the like manner as if such chairman and his respective successors in such office were in law a corporation sole and as if the personalty were real estate and all lands tenements and hereditaments real and personal and all personal chattels and effects which may hereafter be contracted for or be acquired by or belong to the club or the members thereof collectively may be conveyed assigned and assured to and shall therefrom become vested in the chairman and his successors in such office in trust for the club and in the like manner as if such chairman and his respective successors in such office were in law a corporation sole and as if the personalty were real estate.

10. Lands vested in chairman to be held for racecourse only

- (1) The lands by this Act vested in or authorised to be demised to the chairman shall be held by such chairman and his successors in office only for the purpose of being maintained and used for a public racecourse under and subject to the provisions of this Act and any by-laws to be made under and by virtue hereof and save as herein expressly provided shall not be used demised or let for building purposes or unless with the permission in writing of the Commissioner of Crown Lands first had and obtained for any other purpose whatsoever.
- (2) Subsection (1) has effect subject to the exercise of the discretion conferred by section 28(4) of this Act and section 4(2b)(b) of the *Western Australian Turf Club (Property) Act 1944*.

[Section 10 amended by No. 24 of 1997 s. 5.]

11. Lands already demised to be held for purpose of a racecourse

The lands demised by the said Crown Grant of 11 September 1877 shall notwithstanding the expiration or

sooner determination of the term created by the said Crown Grant or by any demise hereafter to be made thereof be and remain vested in and held by the chairman for the purpose in the last preceding section mentioned subject only to the rights of Her Majesty her heirs and successors.

12. Committee may maintain buildings already erected and erect others

The committee may maintain any building now standing and being upon the said land hereby vested in the chairman or any part thereof and may also from time to time build or erect upon the said land or any other land for the time being vested in the chairman either in addition to or substitution for the buildings now standing thereon all such other buildings as may in the opinion of the committee be necessary or expedient for or in connection with the use of the said land as a public racecourse.

13. By-laws

- (1) The committee may make by-laws prescribing all matters that are necessary or convenient to be prescribed for giving effect to the purposes of this Act.
- (2) Without limiting subsection (1) by-laws may —
 - (a) prescribe the objects, purposes and powers of the club;
 - (b) regulate the application of the income and property of the club and the manner in which funds are to be controlled;
 - (c) regulate the management of the club;
 - (d) provide for the election of members of the committee and the constitution, procedure, functions and powers of the Committee;
 - (e) regulate the election or qualifications for admission of members of the club;
 - (f) regulate the suspension or expulsion of members of the club;

s. 13

- (g) regulate appeals from decisions of the Committee;
 - (h) provide for the entrance fees, subscriptions and other amounts (if any) to be paid by members of the club;
 - (i) provide for the keeping of a register of members;
 - (j) regulate the procedure at and in relation to general or special meetings of members;
 - (k) provide for matters concerned or connected with the property of, or held in trust for, the club;
 - (l) prescribe tolls and charges for the purposes of section 24; and
 - (m) provide for the general management of the land vested in the chairman and buildings on that land, races and race meetings.
- (3) By-laws shall be —
 - (a) made by resolution passed by an absolute majority of members of the committee; and
 - (b) published in any manner that the committee considers appropriate.
- (4) By-laws are not —
 - (a) written laws or subsidiary legislation as defined in the *Interpretation Act 1984*; or
 - (b) regulations as defined in the *Interpretation Act 1984* section 42.
- (5) Section 43 (other than subsections (6) and (8)(a)(ii)), 44, 45 and 47 of the *Interpretation Act 1984* apply to by-laws as if they were subsidiary legislation as defined in that Act.
- (6) To the extent that a by-law is in conflict or inconsistent with any written law or with rules of racing made under the *Racing and Wagering Western Australia Act 2003*, the by-law is of no effect.

[Section 13 inserted by No. 35 of 2003 s. 238.]

[14-20. Repealed by No. 35 of 2003 s. 239.]

21. Obstructing officers, etc., of committee or trespassing upon racecourse

Whosoever shall wilfully obstruct or impede any officer servant or agent of the committee in the execution of his duty upon any land for the time being vested in the chairman or upon or in any building or premises connected therewith or wilfully trespass upon any such land building or premises or remove or wilfully injure any building enclosure post tree or shrub upon any such land shall on conviction thereof before a justice forfeit and pay for every such offence over and above the amount of the injury done any sum not exceeding \$20.

[Section 21 amended by No. 113 of 1965 s. 8(1).]

22. Transient offender may be arrested

Any member officer or servant of the committee and all persons called by him to his assistance may seize and detain any person who shall have committed any offence against the provisions of this Act and whose name and residence shall not be given to such member officer or servant upon his requiring the same to be given and give such offender in charge to a police officer who shall deal with the offender according to law.

[Section 22 amended by No. 35 of 2003 s. 240; No. 84 of 2004 s. 80; No. 59 of 2006 s. 73.]

23. Liability to penalty not to relieve from other liabilities

Notwithstanding the liability of any person to any penalty under the provisions of this Act he shall not be relieved from any other liability to which he would have been subject if this Act had not been passed.

[Section 23 amended by No. 35 of 2003 s. 241.]

24. Committee may fix tolls and charges

The committee may by any by-law to be made and come into operation as hereinbefore provided from time to time prescribe and vary at pleasure the scale of tolls and charges to be levied or taken for admission to any land for the time being vested in the chairman or to any building standing or being thereon and may demand recover and receive such tolls and charges from any person coming upon such land or any part thereof or into or upon any such building. Provided that the committee may in and by any such by-law provide that members of the club shall be exempt either wholly or to such extent as such by-law shall specify from the payment of all or any of such tolls and charges.

25. Chairman may let lands buildings or tolls

The chairman may demise and to farm let either from year to year or for any lesser term than a year or for any particular race meeting or meetings any portion of the land for the time being vested in the chairman or any building erected thereon or all or any of the tolls and charges demandable under and by virtue of this Act and the lessee his collectors servants and agents shall have the same powers of demanding recovering and receiving the said tolls and charges as are hereby given to the committee.

26. Borrowing powers

- (1) The chairman may —
 - (a) borrow or re-borrow money; and
 - (b) otherwise arrange financial accommodation.
- (2) Money borrowed or otherwise becoming available under subsection (1) shall be applied for the purposes of the club.
- (3) A person who lends or otherwise makes money available under subsection (1) is not bound to see to the application, nor answerable for the loss or misapplication, of the money.

[Section 26 inserted by No. 24 of 1997 s. 6.]

[27. Repealed by No. 24 of 1997 s. 7.]

28. Power to give security

- (1) To secure repayment of sums borrowed or made available under section 26, and payment of interest on those sums, the chairman may give and execute any mortgage, charge, assignment or other security over all or any part of the assets and property of the club, including rents and profits, tolls, charges and other revenue.
- (2) This section does not apply to —
 - (a) the land referred to in section 7; or
 - (b) land demised under section 8,except with the consent of the Governor given on the recommendation of the Minister administering the *Land Act 1933*².
- (3) A consent under subsection (2) may be given in terms that impose requirements to be observed if a power of sale becomes exercisable by a mortgagee on default by the mortgagor.
- (4) If a power of sale in respect of any land is exercised in accordance with those requirements, the Governor may, on the recommendation of the Minister administering the *Land Act 1933*², discharge the land from any trust or purpose affecting the land by operation of this Act.

[Section 28 inserted by No. 24 of 1997 s. 8.]

29. Transfer of mortgage

Any party entitled to any such mortgage may from time to time transfer his right and interest therein to any other person and every such transfer shall be by deed wherein the consideration shall be truly stated.

[Section 29 amended by No. 24 of 1997 s. 9.]

30. Rights of mortgagees

The respective mortgagees shall be entitled one with another to their respective proportions of the rents and profits tolls charges and other revenue and premises comprised in such mortgages according to the respective sums in such mortgages mentioned to be advanced by such mortgagees respectively and to be repaid the sums so advanced with interest without any preference one above another by reason of priority of the date of any such mortgage.

31. Arrears of interest when to be enforced by appointment of receiver

If within 30 days after the interest accruing upon any such mortgage has become payable and after demand thereof in writing the same be not paid the mortgagee may without prejudice to his right to sue for the interest so in arrear in any Court of Law or Equity require the appointment of a receiver by an application to be made as hereinafter provided and if within 6 months after the principal money owing upon any such mortgage has become payable and after demand thereof in writing the same be not paid the mortgagee without prejudice to his right to sue for such principal money together with all arrears of interest in any Court of Law or Equity may require the appointment of a receiver by an application to be made as hereinafter provided.

32. Appointment of receiver

Every application for a receiver in the cases aforesaid shall be made to the Supreme Court and on any such application it shall be lawful for such court after hearing the parties to appoint some person to receive the whole or a competent part of the rents and profits tolls charges and other revenue of the club liable to the payment of such interest or such principal and interest as the case may be until such interest or until such principal and interest as the case may be together with all costs including the charges of receiving the rents and profits tolls charges or other

revenue aforesaid be fully paid and upon such appointment being made all such rents and profits tolls charges and other revenue as aforesaid shall be paid to and received by the person so to be appointed and the money so to be received shall be so much money received by or to the use of the party to whom such interest or such principal and interest as the case may be shall be then due and on whose behalf such receiver shall have been appointed and after such interests and costs or such principal interests and costs have been so received the power of such receiver shall cease.

33. Commissioner of Crown Lands may authorise inspection of racecourse and buildings

The Commissioner of Crown Lands may when he thinks fit authorise any proper person to inspect the whole or any part of the land for the time being vested in the chairman and all or any buildings thereon and the person so authorised on producing (if required) to any member officer or servant of the committee requiring the same his authority may at all reasonable times enter upon and examine the said land and the buildings erected and being thereon and may exercise all such powers and authority as may be required for the purpose of such inspection.

34. Commissioner of Crown Lands may give notice to repair, etc.

If the person so as aforesaid authorised to inspect the said land premises and buildings certify under his hand to the Commissioner of Crown Lands that in his opinion the surface of the said land or any part thereof is imperfectly kept in order for the purpose of a public racecourse or that any building thereon is in want of repair or is unsafe to the public or in any other respect improper or unfit for use and which said certificate shall contain a detailed statement of all such defects and want of repair the Commissioner of Crown Lands may by notice in writing under his hand addressed to the chairman require the committee within a reasonable time after receipt of such notice

s. 35

well and sufficiently to repair and make good all or any of such defects and want of repair.

35. Service of notice

Every such notice with a true copy of such certificate as aforesaid shall be personally served upon the chairman or some member or officer of the committee and a true copy of such notice shall be fixed upon some part of the land or buildings the subject of such notice and every such notice so served as aforesaid and a copy of which shall have been so fixed as aforesaid shall be deemed to have been duly served.

36. Committee to repair, etc., upon notice

The committee shall within a reasonable time after service of such notice in manner aforesaid well and sufficiently repair and make good all such defects and want of repair mentioned in the said certificate as by the said notice they shall be required to do.

37. Officers to give security

Before any person entrusted with the custody or control of moneys whether treasurer collector or other officer of the club shall enter upon his office the committee shall take sufficient security from him for the faithful execution of his office.

38. Accounts to be kept

The committee shall cause full and accurate accounts to be kept of all sums of money received or expended on account of the club and of the matters and things for which such sums of money shall have been received or expended.

39. Appointment of auditors

The Commissioner of Crown Lands may from time to time appoint an auditor for the purpose of auditing the accounts of the club and such auditor may from time to time remove at pleasure.

40. Books to be balanced and audited

The books of the club shall in each and every year be balanced to and inclusive of 31 July in the year preceding and forthwith on the books being so balanced an annual account shall be made up which shall exhibit a true statement of the total receipts and expenditure of the club during the year immediately preceding 31 July with a statement of the balance of such account and such books and accounts shall be examined and audited by the auditor so to be appointed as aforesaid and the balance and account shall be certified by the chairman and by such auditor as aforesaid.

[Section 40 amended by No. 77 of 1990 s. 4.]

41. Copy of annual account to be submitted to chief executive officer

A copy of the annual account referred to in section 40 shall be submitted to the chief executive officer of the department principally assisting the Minister with the administration of the Act on or before 31 October in each year.

[Section 41 inserted by No. 77 of 1990 s. 5.]

41A. Inspection of annual account

A person may, during normal business hours, inspect a copy of the annual account at the office of the department referred to in section 41.

[Section 41A inserted by No. 77 of 1990 s. 5.]

42. Club not to be incorporated

Nothing herein contained shall extend or be deemed taken or construed to extend to incorporate the club or the members thereof or to relieve or discharge them or any of them from any responsibility duties contracts or obligations whatsoever which they would be subject or liable to either between the club and

others or between the individual members in the club or any of them if this Act had not been passed.

43. If racecourse not maintained and used land to revert to the Crown

- (1) If at any time after the passing of this Act the lands by this Act vested in or authorised to be demised to the chairman shall save and except with the consent of the Governor in Council given before the expiration of the period of 12 months hereafter mentioned cease for the period of 12 months at any one and the same time to be maintained and used as and for a public racecourse or if without the consent of the Governor in Council the said lands or any part thereof shall be used or applied for or to any other purpose than that of a public racecourse then and in either of such cases such part of the said land so ceasing to be maintained and used or so used or applied as aforesaid as the case may be shall at the end of the said period of 12 months revert to Her Majesty her heirs and successors for the benefit of the public.
- (2) Subsection (1) has effect subject to the exercise of the discretion conferred by section 28(4) of this Act and section 4(2b)(b) of the *Western Australian Turf Club (Property) Act 1944*.

[Section 43 amended by No. 24 of 1997 s. 10.]

44. Building to be paid for if possession re-resumed

Notwithstanding anything in this Act contained Her Majesty her heirs or successors shall not be entitled to take or resume possession of the lands by this Act vested or authorised to be vested in the chairman without previously paying to the chairman in trust for the club the value of all buildings then erected or being upon such lands such value to be determined in case of dispute in the manner in which disputed compensation for land is required to be determined by *The Railway's Act 1878*³ and the other Act amending the same.

45. Saving of rights

Save as herein expressly provided nothing in this Act contained shall be deemed to affect or apply to any right title or interest of Her Majesty her heirs or successors or of any body politic or corporate or of any person excepting such as are mentioned in this Act and those claiming by from or under them respectively.

First Schedule

First Schedule

THE WESTERN AUSTRALIAN TURF CLUB

Section 4

Memorial of the name of the chairman of the committee of '*The Western Australian Turf Club*' to be recorded in the Supreme Court of the State of Western Australia pursuant to an Act of the Parliament of Western Australia passed in the year of the reign of Her Majesty Queen Victoria No. .

A.B., Chairman.

C. D., }
E. F., } Committee
&c., }

(Signed) A.B., Chairman.

C. D., }
E. F., } Members of Committee
&c., } of said Club and being a
 majority of such
 committee

I G.H. of make oath and say that I was present and did see the foregoing memorial signed by the above-named chairman and also by the respective members of the committee whose names appear thereto and that the members of committee signing form a majority of the committee of '*The Western Australian Turf Club*'.

Sworn this day of 20)
 before me)

[Second and Third Schedule repealed by No. 24 of 1997 s. 11.]

Notes

- ¹ This is a compilation of the *The Western Australian Turf Club Act 1892* and includes the amendments made by the other written laws referred to in the following table ⁶. The table also contains information about any reprint.

Compilation table

Short title	Number and year	Assent	Commencement
<i>The Western Australian Turf Club Act 1892</i>	55 Vict Private Act	18 Mar 1892	18 Mar 1892
<i>Decimal Currency Act 1965</i>	113 of 1965	21 Dec 1965	s. 4-9: 14 Feb 1966 (see s. 2(2)); balance: 21 Dec 1965 (see s. 2(1))
Reprint of <i>The Western Australian Turf Club Act 1892</i> as at 18 Aug 1986 (includes amendments listed above)			
<i>The Western Australian Turf Club Amendment Act 1990</i> ⁴	77 of 1990	20 Dec 1990	1 Feb 1991 (see s. 2 and <i>Gazette</i> 25 Jan 1991 p. 268)
<i>Turf Club Legislation Amendment Act 1997</i> Pt. 2 ⁵	24 of 1997	24 Sep 1997	24 Sep 1997 (see s. 2)
Reprint 2: <i>The Western Australian Turf Club Act 1892</i> as at 14 Mar 2003 (includes amendments listed above)			
<i>Racing and Gambling Legislation Amendment and Repeal Act 2003</i> Pt. 14 ⁷	35 of 2003	26 Jun 2003	1 Aug 2003 (see s. 2 and <i>Gazette</i> 29 Jul 2003 p. 3259)
<i>Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004</i> s. 80	84 of 2004	16 Dec 2004	2 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7129 (correction in <i>Gazette</i> 7 Jan 2005 p. 53))
<i>Criminal Investigation (Consequential Provisions) Act 2006</i> s. 73	59 of 2006	16 Nov 2006	1 Jul 2007 (see s. 2 and <i>Gazette</i> 22 Jun 2007 p. 2838)

- ² Under the *Land Administration Act 1997* s. 281(3), a reference in a written law to the *Land Act 1933* is, unless the contrary intention appears, to be construed as if that reference were a reference to the *Land Administration Act 1997*.

- ³ Repealed by *Government Railways Act 1904*.

- ⁴ *The Western Australian Turf Club Amendment Act 1990* s. 6 reads as follows:

“

6. Transitional

- (1) Notwithstanding the operation of section 40 of the principal Act as amended by this Act, after the commencement of this Act the first period for which the books of the club shall be balanced and an account made up shall be the period 1 May 1990 to 31 July 1991.
- (2) A copy of the account referred to in subsection (1) shall be submitted to the chief executive officer in accordance with section 41 of the principal Act as amended by this Act.

”

⁵ The *Turf Club Legislation Amendment Act 1997* s. 12 reads as follows:

“

12. Validation

Any exercise by the chairman before the commencement of this Act of his powers under section 26 or 28 of the principal Act that would have been valid if section 26, as inserted by section 6, and section 28, as inserted by section 8, had been in force at the time of such exercise is declared to be, and to have always been, valid.

”

⁶ This Act is to be read in conjunction with the *Western Australian Turf Club (Property) Act 1944* (see s. 2 of that Act).

⁷ The *Racing and Gambling Legislation Amendment and Repeal Act 2003* s. 19 and Pt. 14 Div. 2 read as follows:

“

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.

“

Division 2 — Transitional provision

242. By-laws — continuation and expiry

- (1) Subject to subsections (2) and (3) and any rules of racing and rules of wagering made by RWWA under the RWWA Act, by-laws made under *The Western Australian Turf Club Act 1892* that were in force immediately before commencement day continue in force with such changes as are necessary on and after commencement day as if they were made under section 13 of that Act as amended by this Act.
- (2) Subsection (1) does not continue the operation of any by-law that could not be made under section 13 of *The Western Australian Turf Club Act 1892* as amended by this Act.
- (3) The by-laws continued in force under subsection (1), 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.
- (4) Nothing in this section affects the operation of section 36 of the RWWA Act.

”