

# RACECOURSE DEVELOPMENT AMENDMENT ACT

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No. 26 of 1990

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AN ACT to amend the *Racecourse Development Act 1976*  
and for related matters.

[Assented to 27 September 1990.]

The Parliament of Western Australia enacts as follows:

## Short title

1. This Act may be cited as the *Racecourse Development Amendment Act 1990*.

## Commencement

2. This Act shall come into operation on such day as is fixed by proclamation.

**Principal Act**

3. In this Act the *Racecourse Development Act 1976\** is referred to as the principal Act.

[\*Act No. 72 of 1976 and amended by Acts Nos. 98 of 1985 and 66 of 1988.]

**Long title amended**

4. The long title to the principal Act is amended by deleting “country”.

**Section 3 amended**

5. Section 3 of the principal Act is amended—

- (a) by deleting the definitions of “metropolitan area” and “section”; and
- (b) by deleting the definition of “racing club” and substituting the following definition—

“ “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; ”.

**Section 4 amended**

6. Section 4 of the principal Act is amended—

- (a) by repealing subsections (2), (2a) and (2b) and substituting the following subsections—

“ (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 Gaming or a person nominated in writing by the chief executive officer;
- (d) one person nominated by the Club 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. ”;

(b) in subsection (5) by deleting paragraphs (a), (b) and (c) and substituting the following paragraphs—

- “
- (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

- (c) by repealing subsections (6) and (7) and substituting the following subsections—

“ (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). ”.

### **Section 5 amended**

7. Section 5 of the principal Act is amended in subsection (1)—

(a) in paragraph (c) by deleting “person or”; and

(b) by deleting “section 4 (2) (c) or (d)” and substituting the following—

“ section 4 (2) (d), (e), (f) or (g) ”.

### **Section 6 amended**

8. Section 6 of the principal Act is amended by inserting after subsection (3) the following subsection—

“ (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 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 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. ”.

### **Sections 7A and 7B inserted**

**9.** After section 7 of the principal Act the following sections are inserted—

#### **Directions by the Minister**

“ **7A.** (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.

#### **Directions by the Trust**

**7B.** (1) The Trust may give directions to a racing club to carry out works to improve safety at a racecourse or training track and that racing club shall give effect to any such direction.

(2) A direction may be given to a racing club under subsection (1) whether or not an application for assistance by that racing club 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 8 repealed and sections 8 and 8A substituted**

10. Section 8 of the principal Act is repealed and the following sections are substituted—

#### **Administration**

- “ 8. There shall be appointed under and subject to the *Public Service Act 1978* such officers and other employees as are necessary for the purpose of assisting in the administration of this Act.

#### **Consultants etc.**

8A. (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 the *Public Service Act 1978*, 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 9 amended**

11. Section 9 of the principal Act is amended by inserting after "Trust" in the second place where it occurs the following—

“ , a person engaged under section 8A (1) ”.

**Section 10 amended**

12. Section 10 of the principal Act is amended in subsection (2) by deleting paragraphs (a) and (c).

**Section 10A inserted**

13. After section 10 of the principal Act the following section is inserted—

**Allocation of moneys in the Fund**

“ 10A. (1) The moneys in 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 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 shall be made from the trotting allocation.

(4) After allowing for costs and expenses under section 11 (1) (b) and (c) moneys paid into 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 paid into 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 racing club that conducts galloping horse races or to a racing club that conducts trotting horse races. ”.

### **Section 11 amended**

**14. Section 11 of the principal Act is amended—**

- (a) by inserting after the section designation “11.” the subsection designation “(1)”;
- (b) by inserting after “Trust” in the second place where it occurs the following—

“ in accordance with section 10A ”;

- (c) in paragraph (a)—

- (i) by deleting “that are registered with the Club or the Association and conduct horse races outside the metropolitan area”; and
- (ii) in subparagraphs (i) and (ii) by deleting “outside the metropolitan area”;

- (d) by inserting after paragraph (a) the following paragraphs—

“ (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 for the purpose of enabling or assisting them to give effect to directions given under section 7B (1); ”; and

- (e) by inserting after paragraph (c) the following subsections—

“ (2) A loan or grant made to a racing club under subsection (1) (a) may be made for part or all of an amount requested by the racing club.



(3) A loan or grant made to a racing club under subsection (1) may be made subject to such terms and conditions as the Trust thinks fit.

(4) Where a racing club—

- (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—

- (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 12 repealed and a section substituted**

15. Section 12 of the principal Act is repealed and the following section is substituted—

### **Representatives of racing clubs entitled to appear before Trust**

“ 12. Before the Trust—

- (a) gives a direction to a racing club under section 7B (1);
- (b) makes a loan or grant to a racing club under section 11 (1); or

(c) gives a notice to a racing club under section 11 (4),

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

### **Section 16 added**

**16.** After section 15 of the principal Act the following section is added—

#### **Review of Act**

“ **16.** (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.

(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. ”.

### **Transitional**

**17.** 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.