

RACECOURSE DEVELOPMENT.

No. 72 of 1976.

AN ACT to establish a Racecourse Development Trust and to make provision for a Racecourse Development Trust Fund for the purposes of assisting country racing clubs in improving facilities provided by those clubs, and for incidental and other purposes.

[Assented to 6th October, 1976.]

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

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

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

Interpreta-
tion.

3. In this Act unless the contrary intention appears—

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

“Board” means the Totalisator Agency Board constituted by the Totalisator Agency Board Betting Act, 1960;

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

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

“metropolitan area” has the same meaning as is from time to time given to that expression by the Town Planning and Development Act, 1928;

“racing club” means a body which conducts galloping or trotting horse races;

“racing year” means the period of twelve months commencing on the first day of August and ending on the immediately succeeding thirty-first day of July;

“section” means section of this Act;

“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.

Racecourse
Development
Trust.

4. (1) For the purposes of this Act a body to be known as the Racecourse Development Trust shall be established.

(2) The Trust shall consist of four members appointed by the Minister, of whom—

- (a) one shall be a member of the Board, not being a member appointed on the nomination of the Club or the Association;
- (b) one shall be a person who is or has been an officer of the Public Service of the State nominated for appointment by the Treasurer;
- (c) one shall be a person nominated for appointment by the Club; and
- (d) one shall be a person nominated for appointment by the Association.

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

(4) The Minister may from time to time appoint one of the members referred to in paragraph (a) or (b) of subsection (2) of this section to be the Chairman of the Trust and may revoke any such appointment.

(5) The Minister may—

- (a) appoint an officer of the Board to be the deputy of the member referred to in paragraph (a) of subsection (2) of this section;
- (b) appoint a person who is or has been an officer of the Public Service of the State nominated by the Treasurer for that purpose to be the deputy of the member referred to in paragraph (b) of subsection (2) of this section;
- (c) appoint a person nominated by the Club for that purpose to be the deputy of the member referred to in paragraph (c) of subsection (2) of this section; and

- (d) appoint a person nominated by the Association for that purpose to be the deputy of the member referred to in paragraph (d) of subsection (2) of this section,

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) Prior to the first appointment of members and deputies of the Trust and from time to time thereafter whenever the office of a member or deputy becomes vacant, the Minister shall in writing request each of the persons or bodies who or which is to nominate a member or deputy member for appointment to nominate a person or persons for appointment, and the person or body shall, within fourteen days of receiving the request from the Minister, nominate in writing the person he or it wishes to be appointed a member or deputy, as the case requires.

(7) Where a person or body fails to nominate a person for appointment as member or deputy of the Trust within the time provided by subsection (6) of this section, the Minister may appoint such person as he thinks fit to be a member or deputy of the Trust, as the case requires, and that appointment shall be as valid and effectual for the purposes of this Act as if the person appointed had been nominated for appointment in accordance with subsection (6) of this section.

(8) Members of the Trust referred to in paragraphs (c) and (d) of subsection (2) of this section and the deputies of those members may be paid such fees and allowances as are from time to time determined by the Governor.

Vacancies,
etc.

5. (1) The office of a member of the Trust shall become vacant if—

- (a) he is absent, except with leave of the Minister, from four consecutive meetings of the Trust;

- (b) he resigns his office by writing under his hand served on the Minister;
- (c) the person or 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 for appointment by the appropriate person or 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 subsection (3) of section 4 and paragraphs (b), (c) and (d) of subsection (1) of this section apply to and in relation to the deputies of members of the Trust as if they were members of the Trust.

6. (1) The Trust shall hold such meetings as are necessary for the purposes of discharging its functions under this Act.

Meetings of
the Trust.

(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 or his deputy, if present, shall preside, but if neither the Chairman nor his deputy is present, the members present at the meeting shall appoint one of their number to preside thereat;
- (b) three 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, his deputy or other person presiding shall also have a casting vote.

(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.

Trust to be
body
corporate.

7. (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.

Trust may
utilise
services of
staff of
Totalisator
Agency
Board.

8. For the purposes of assisting it in the discharge of its functions under this Act, the Trust may, with the approval of the Board—

- (a) appoint an officer of the Board to be the Secretary of the Trust; and

- (b) utilise the services of other officers of the Board and facilities of the Board.

9. A person who is or has been a member of the Trust, a deputy of such a member, a secretary of the Trust or an officer of the Board 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.

Members
of Trust, etc.
not person-
ally liable.

10. (1) There shall be established and maintained at the Treasury a trust fund which shall be known as the Racecourse Development Trust Fund.

Racecourse
Development
Trust Fund.

(2) There shall be paid into the Fund—

- (a) by the Treasurer, not later than the fifteenth day of September in each year, commencing with the year 1976, an amount equal to twenty-five per centum of the moneys paid to him pursuant to subsection (3) of section 23 of the Totalisator Agency Board Betting Act, 1960 during the last preceding racing year by the Board by way of unclaimed dividends and refunds which originally became payable in respect of bets made on galloping and trotting horse races;
- (b) by the Club, not later than the first day of October in each year, commencing with the year 1976, an amount equal to sixty per centum of the amount paid by the Treasurer in each such year to the Fund pursuant to paragraph (a) of this subsection;
- (c) by the Association, not later than the first day of October in each year, commencing with the year 1976, an amount equal to forty per centum of the amount paid by the Treasurer in each such year to the Fund pursuant to paragraph (a) of this subsection;

- (d) all moneys being repayments of loans made from the Fund to racing clubs;
- (e) all moneys paid by way of interest charged on or in connection with loans made from the Fund to racing clubs;
- (f) income from the investment of moneys in the Fund pursuant to subsection (5) of this section;
- (g) any other moneys lawfully payable to the Fund;
- (h) moneys borrowed from the Board pursuant to subsection (4) of this section; and
- (i) any moneys, being grants, bequests or donations, made to the Fund.

(3) If the provisions of this section have not come into operation on or before the fifteenth day of September, 1976—

- (a) the payment which the Treasurer would otherwise have been required to make on or before that day pursuant to paragraph (a) of subsection (2) of this section shall be made within fifteen days after the coming into operation of this section; and
- (b) the payments which the Club and the Association would otherwise have been required to make on or before the first day of October, 1976 pursuant to paragraphs (b) and (c) of subsection (2) of this section shall be made within thirty days after the coming into operation of this section.

(4) For the purposes of meeting any expenses incurred in the administration of this Act prior to the first payment of moneys into the Fund pursuant to paragraph (a) of subsection (2) of this section, the Board is hereby authorized to make an interest-free advance to the Fund of an amount not exceeding one thousand dollars, which advance shall be repaid from the Fund by the Trust on demand being made therefor by the Board.

(5) Any moneys in the Fund, until required for the purposes of this Act, may be temporarily invested at the request of the Trust by the Treasurer in any securities approved by the Treasurer.

(6) Notwithstanding anything to the contrary in the Totalisator Agency Board Betting Act, 1960, where the Club or the Association is in default in making a payment referred to in paragraph (b) or (c) of subsection (2) or paragraph (b) of subsection (3) of this section, the Treasurer shall cause the Minister and the Board to be advised of the default, and the Board shall not make any payment to the Club or the Association, as the case requires, under section 28 of that Act until such time as the Treasurer advises the Board and the Minister that the Club or the Association, as the case requires, is no longer so in default.

11. The Fund shall be administered by the Trust and the moneys in the Fund may be applied by the Trust for—

Application
of Fund.

- (a) making loans or grants to racing clubs that are registered with the Club or the Association and conduct horse races outside the metropolitan area, where the Trust is of opinion that the moneys loaned or granted will be used by the recipient club 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 outside the metropolitan area;
 - (ii) the establishment of a new racecourse or training track outside the metropolitan area;
 - (iii) the discharge or reduction of any existing loan previously obtained by the racing club;

- (iv) assisting a racing club to conduct its affairs during periods of financial difficulty;
- (b) the repayment of any loan made to the Fund pursuant to subsection (4) of section 10; and
- (c) meeting the costs and expenses of the administration of this Act.

Representatives of applicant clubs and country associations entitled to appear before Trust.

12. Where an application has been made to the Trust by a club for a loan or grant, the Trust shall afford—

- (a) a representative nominated by the club for the purpose; and
- (b) the appropriate member of the Board whose appointment to the Board was made on the nomination of a conference of Country Racing Associations or a conference of Country Trotting Associations, whichever is appropriate having regard to the type of racing conducted by the applicant club,

a reasonable opportunity to appear at and be heard before a meeting of the Trust in support of the application before the Trust makes a final decision with respect to the application.

Applications, security for loans, etc.

13. The Trust may—

- (a) require any club 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 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, require the club 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.

14. (1) The Trust shall keep such accounts as are necessary to record the financial transactions of the Fund and shall, as soon as practicable after the last day of each racing year, prepare and furnish to the Minister a report in writing of its operations during that racing year, together with full financial statements appertaining to those operations.

Accounts,
annual
report and
audit.

(2) Before furnishing its report and the financial statements to the Minister, the Trust shall submit the financial statements for examination and report by the Auditor General.

(3) The Minister shall cause the report of the Trust, the financial statements, and the Auditor General's report thereon to be laid before each House of the Parliament as soon as practicable after receiving them from the Trust.

15. (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.

Regulations.

(2) Without affecting the generality of the powers conferred by subsection (1) of this section, regulations may be so made requiring racing clubs which have received any loan or grant under this

Act to permit the Trust, or any member of the Trust or other person authorized 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.
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