

Western Australia

Anzac Day Act 1960

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Anzac Day Act 1960

An Act to amend and consolidate the law relating to the observance of Anzac Day as a public holiday; to establish an Anzac Day Trust Fund; and for other and incidental purposes.

1. Short title

This Act may be cited as the *Anzac Day Act 1960*¹.

[2. *Omitted under the Reprints Act 1984 s. 7(4)(f).*]

3. Interpretation

In this Act —

“**Anzac Day**” means 25 April in each year;

“**dependant**”, in relation to a deceased person, includes a person who, immediately before the death of the person, was a spouse, de facto partner or child of the person;

“**race meeting**” means a meeting of persons for the purpose of holding or conducting horse racing, trotting racing, or greyhound racing;

“**racing club**” means any club, company, association or body of persons, whether incorporated or otherwise, formed for the purpose of promoting horse racing, trotting racing, or greyhound racing;

“**sports**” means motor car races, motor cycle races, bicycle races, or foot races, or cricket matches, football matches, soccer matches, hockey matches, or baseball matches, or any other game, exercise, pastime or contest of a kind usually held, conducted, carried on, contested or decided on

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a ground, which are held in any building or on any ground to which persons are admitted on payment of a fee or charge for admission, or are admitted without payment of any such fee or charge but prior to or during the holding of the sports or after their conclusion a donation is sought from the persons attending those sports by or on behalf of the person, club, association or body holding the same; but does not include horse races, trotting races, or greyhound races;

“**Trust**” means the body corporate constituted under this Act as The Anzac Day Trust;

“**Trustee**” means a person occupying the office of Trustee of the Trust, including the office of chairman.

[Section 3 amended by No. 14 of 1964 s. 2; No. 9 of 1975 s. 2; No. 28 of 2003 s. 12.]

4. Race meetings on Anzac Day

- (1) No license shall be granted under the *Racing and Wagering Western Australia Act 2003* or the *Racing Restriction Act 2003*, for any race meeting to be held on Anzac Day before the hour of 1 p.m., and any license granted contrary to this section shall be void.
- (2) It shall be unlawful for any person or racing club to hold or conduct any race meeting on Anzac Day if that race meeting commences before the hour of 1 p.m. of that day.
- [(3) repealed]*
- (4) If any race meeting is held on Anzac Day in any year in contravention of the provisions of this section, the person or racing club by or on behalf of whom or which the race meeting was held, and each member of the managing body or committee of that racing club, commits an offence and is liable to a penalty not exceeding \$400.

[(5) repealed]

[Section 4 amended by No. 113 of 1965 s. 8(1); No. 9 of 1975 s. 3; No. 35 of 2003 s. 73(2), (3); No. 62 of 2003 s. 4.]

5. Proceeds of race meetings on Anzac Day to be paid to Trust

- (1) The person or racing club by or on behalf of whom or which a race meeting is held or conducted on Anzac Day shall within one month after that race meeting is held or conducted —
 - (a) furnish to the Trust a return in the prescribed form setting out details of all moneys received and expenditure incurred in relation to the holding or conducting of that race meeting and the return shall be verified by a statutory declaration made by that person or by the secretary or treasurer of that racing club; and
 - (b) pay to the Trust —
 - (i) in the case of a race meeting held in the metropolitan region, the whole of the net proceeds derived from that race meeting; or
 - (ii) in the case of a race meeting held outside the metropolitan region, 60% of the net proceeds derived from that race meeting.
- (2) If the person or racing club by or on behalf of whom or which a race meeting is held on Anzac Day fails to furnish the return required under the provisions of subsection (1), or to pay to the Trust the net proceeds derived from the race meeting in accordance with that subsection, that person or racing club, and each member of the managing body or committee of that racing club, commits an offence and is liable to a penalty not exceeding \$400.
- (3) In this section —

“metropolitan region” has the meaning given to that term in the *Planning and Development Act 2005* section 4.
- (4) When 25 April in any year falls on a Sunday each of the references in subsections (1) and (2) to Anzac Day shall, in and

in relation to that year, be construed as a reference to the next following Monday and to that day only.

[Section 5 amended by No. 14 of 1964 s. 3; No. 113 of 1965 s. 8(1); No. 1 of 1976 s. 2; No. 35 of 2003 s. 73(4); No. 38 of 2005 s. 15.]

6. Sports on Anzac Day

- (1) Notwithstanding anything in any Act or in any regulation, local law or by-law, no sports shall be held on Anzac Day in any year except in compliance with the provisions of this section.
- (2) No race, match, game, exercise, pastime, contest or other event at any sports held on Anzac Day shall commence before the hour of 1 p.m.
- (3) Nothing in this section shall affect the operation of any Act or law relating to Sunday, but otherwise this section shall have effect notwithstanding anything in any Act, regulation, local law or by-law.
- (4) If any sports are held on Anzac Day in any year in contravention of this section, the person, club, association or body by or on behalf of whom or which those sports were so held, and each member of the managing body or committee of that club, association or body, commits an offence and is liable to a penalty not exceeding \$400.

[Section 6 amended by No. 113 of 1965 s. 8(1); No. 14 of 1996 s. 4.]

7. Proceeds of sports on Anzac Day to be paid to Trust

- (1) The person, club, association or body by or on behalf of whom or which any sports are held on Anzac Day shall within one month after the holding of the sports —
 - (a) furnish to the Trust a return in the prescribed form setting out details of all moneys received and expenditure incurred in relation to the holding of those

sports, and the return shall be verified by a statutory declaration made by that person or by the secretary, treasurer or other responsible official of that club, association or body; and

- (b) pay to the Trust 60% of the net proceeds derived from the holding of those sports.
- (2) If the person, club, association or body by or on behalf of whom or which sports are held on Anzac Day fails to furnish the return required under subsection (1), or to pay to the Trust the net proceeds derived from the holding of those sports in accordance with that subsection, that person, club, association or body, and each member of its managing body or committee, commits an offence and is liable to a penalty not exceeding \$400, but no such member is liable if it is shown that such failure occurred without his knowledge or approval.
- (3) When 25 April in any year falls on a Sunday each of the references in subsections (1) and (2) to Anzac Day shall, in and in relation to that year, be construed as a reference to the next following Monday and to that day only.

[Section 7 amended by No. 113 of 1965 s. 8(1); No. 1 of 1976 s. 3.]

[8. Omitted under the Reprints Act 1984 s. 7(4)(e).]

[9. Repealed by No. 34 of 1985 s. 9.]

10. Establishment of Anzac Day Trust Fund

- (1) There shall be established at the Treasury, forming part of the Trust Fund constituted under section 9 of the *Financial Administration and Audit Act 1985*, a fund to be called the Anzac Day Trust Fund, which Fund shall, subject to the Treasurer, be administered by the Trust constituted under the provisions of this Act.
- (2) There shall be credited to the Treasury to the credit of the Fund —

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- [(a) deleted]*
- (b) all moneys paid to the Trust pursuant to the provisions of section 5;
 - (c) all moneys paid to the Trust pursuant to the provisions of section 7; and
 - (d) all donations, devises and bequests made to the Trust.
- (3) The moneys standing to the credit of the Fund shall be charged with the cost of administering this Act, and subject thereto shall be distributed each year by the Trust, with the approval and consent of the Treasurer, for the purposes of the preservation, alteration and improvement of existing homes and the erection and construction of new homes for aged ex-servicemen and ex-servicewomen and their maintenance in such homes and of the welfare of dependants of deceased ex-servicemen or deceased ex-servicewomen, and among institutions, organisations and associations the object or one of the objects of which is the financial assistance and relief, or the amelioration of conditions, of persons —
- (a) who were members of the naval, military or air forces of Her Majesty or of the Commonwealth; or
 - (b) now resident in the State who were members of any naval, military or air forces of any foreign power allied or associated with Her Majesty or with the Commonwealth,
- during any war in which Her Majesty or the Commonwealth was or is engaged or during any period while they were outside Australia and they were, or the body, contingent or detachment of the naval, military or air forces of which they were members or to which they were attached was, allotted for duty in a prescribed special area, or of the dependants of any such persons.
- (4) Nothing in this section shall entitle, or be deemed to entitle, any Trustee to any remuneration, allowance or expenses in respect of the exercise by him of his functions and duties under this Act.

[Section 10 amended by No. 14 of 1964 s. 43; No. 2 of 1970 s. 2; No. 49 of 1996 s. 64; No. 28 of 2003 s. 13; No. 62 of 2003 s. 5.]

11. The Anzac Day Trust constituted

- (1) For the purposes of this Act a Trust is constituted under the name of “The Anzac Day Trust.”
- (2) The Trust shall consist of 4 Trustees (including the chairman) to be appointed from time to time by the Governor.
- (3) Of the 4 Trustees —
 - (a) one shall be a person nominated by the Treasurer as the representative of the Treasury and he shall be chairman;
 - (b) one shall be a person nominated in accordance with the provisions of subsection (4) by the Treasurer as the representative of The Returned and Services League of Australia WA Branch Incorporated;
 - (c) one shall be a person nominated in accordance with the provisions of subsection (4) by the Treasurer as the representative of Perth Legacy Incorporated; and
 - (d) one shall be a person nominated in accordance with the provisions of subsection (5) by the Treasurer as the representative of those societies, bodies or associations of ex-servicemen or ex-servicewomen or the dependants of either, which are the holders of licenses under the provisions of the *Charitable Collections Act 1946*.
- (4) (a) Where the Treasurer intends to nominate a Trustee mentioned in paragraph (b) or in paragraph (c) of subsection (3), he shall before making the nomination give written notice of that intention —
 - (i) in the case of the Trustee mentioned in that paragraph (b), to the State President of the body referred to in that paragraph; or

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- (ii) in the case of the Trustee mentioned in that paragraph (c), to the President of the body referred to in that paragraph.
 - (b) If within one month of the giving of the notice referred to in this section the State President, or, as the case may be, the President, of the body to whom that notice is given submits to the Treasurer a panel of the names of 3 persons eligible to hold the office of Trustee as the representative of that body, the Treasurer shall nominate for that office one of the 3 persons whose names are so submitted.
 - (c) If at the expiration of the period of one month, or such extension of that period as he thinks fit and is hereby authorised to grant, the Treasurer has not received the panel required to be submitted under this subsection, or has received the panel but none of the persons named is eligible to hold office as a Trustee, the Treasurer shall nominate such person as he thinks fit.
- (5)
- (a) Where the Treasurer intends to nominate a Trustee mentioned in paragraph (d) of subsection (3), he shall before making the nomination give written notice of that intention to the President of each of the bodies referred to in that paragraph.
 - (b) If within one month of the giving of the notice referred to in this section, the President of each body to whom that notice is given submits to the Treasurer the name of a person eligible to hold the office of Trustee, the Treasurer shall nominate for the office of Trustee as the representative of the bodies referred to in subsection (3)(d) one of the persons whose names are so submitted.
 - (c) If at the expiration of the period of one month, or such extension of that period as he thinks fit and is hereby authorised to grant, the Treasurer has not received the names required to be submitted under this subsection, or

has received the names but none of the persons named is eligible to hold office as a Trustee, the Treasurer shall nominate such person as he thinks fit.

- (6) Any 3 Trustees shall form a quorum.

[Section 11 amended by No. 14 of 1964 s. 5; No. 62 of 2003 s. 6.]

12. Trust to be a body corporate

The Trust is a body corporate with perpetual succession and a common seal, and is capable of suing and being sued in its corporate name, and of doing and permitting all acts and things required by this Act to be done by the Trust or which are necessary or convenient to be done by the Trust for the purpose of carrying out its powers and functions under this Act.

13. Eligibility of Trustees

A person is not eligible for appointment and shall not be appointed to or hold office as a Trustee —

- (a) if he is bankrupt;
- (b) if within 6 years he has as a bankrupt debtor taken advantage of protection or relief under any law for the protection of bankrupt debtors;
- (c) if through mental or physical infirmity or illness he would, if appointed, be unable satisfactorily to carry out the duties of office;
- (d) if he has been convicted of an indictable offence, or other offence which in the opinion of the Governor is of so serious a nature as to render him unsuitable for appointment.

14. Tenure of offices of Trustees

- (1) Subject to this Act every Trustee shall hold office for a period of 3 years from the date of his appointment, unless he dies, resigns or is removed from office, in any of which events a

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successor shall be appointed by the Governor for the unexpired period of the term of office of the Trustee who has died, resigned or been removed from office.

- (2) The Governor may at any time accept the resignation of any Trustee and may remove any Trustee from office who becomes bankrupt or commits an indictable offence, or has, in the opinion of the Governor, become unfit or unsuitable to continue as a Trustee because of mental or physical infirmity or illness, or of neglect of duty as a Trustee, or of misbehaviour whether in his capacity as a Trustee or otherwise.

14A. Recovery of proceeds

Any moneys payable to the Trust pursuant to the provisions of this Act, as well as the costs of proceedings for the recovery of those moneys, may be sued for and recovered by action at the suit of the Trust in a court of competent jurisdiction, and any such action may be taken without prejudicing the liability of any person, racing or other club, association or body to penalty under this Act.

[Section 14A inserted by No. 14 of 1964 s. 6.]

15. Application of the *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 December.

[Section 15 inserted by No. 98 of 1985 s. 3 (as amended by No. 4 of 1986 s. 3).]

16. Authentication of documents

Every notice, order, summons or other document requiring authentication by the Trust shall be sufficiently authenticated without the seal of the Trust if signed by the chairman.

17. Regulations

- (1) The Governor may make any regulations not inconsistent with the provisions of this Act which may be necessary or convenient for carrying this Act into operation, or for facilitating the operation of this Act and of the Trust thereunder.
- (1a) Without limiting the generality of subsection (1) the regulations may prescribe that a specified area outside Australia is, for the purposes of this Act, a special area on and after a specified date, or between specified dates which date or dates may be before or after the coming into operation of this Act and the regulations may prescribe that the area is, for the purposes of this Act, no longer a special area on and after a specified date.
- (2) Such regulations may prescribe a penalty not exceeding \$100 for the breach or omission of and duty imposed by those regulations.

[Section 17 amended by No. 113 of 1965 s. 8(1); No. 2 of 1970 s. 3.]

[The Schedule omitted under the Reprints Act 1984 s. 7(4)(e).]

Notes

- ¹ This is a compilation of the *Anzac Day Act 1960* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Anzac Day Act 1960</i>	73 of 1960	12 Dec 1960	12 Dec 1960
<i>Anzac Day Act Amendment Act 1964</i>	14 of 1964	2 Oct 1964	2 Oct 1964
<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))
<i>Anzac Day Act Amendment Act 1970</i>	2 of 1970	29 Apr 1970	29 Apr 1970
Reprint of the <i>Anzac Day Act 1960</i> approved 21 May 1970 not in a Volume (includes amendments listed above)			
<i>Anzac Day Act Amendment Act 1975</i>	9 of 1975	9 May 1975	9 May 1975
<i>Anzac Day Act Amendment Act 1976</i>	1 of 1976	12 Apr 1976	12 Apr 1976
<i>Acts Amendment (Betting Control) Act 1985 Pt. III</i>	34 of 1985	24 Apr 1985	24 Apr 1985 (see s. 2)
<i>Acts Amendment (Financial Administration and Audit) Act 1985 s. 3</i>	98 of 1985 (as amended by No. 4 of 1986)	4 Dec 1985	1 Jul 1986 (see s. 2 and <i>Gazette</i> 30 Jun 1986 p. 2255)
<i>Local Government (Consequential Amendments) Act 1996 s. 4</i>	14 of 1996	28 Jun 1996	1 Jul 1996 (see s. 2)
<i>Financial Legislation Amendment Act 1996 s. 64</i>	49 of 1996	25 Oct 1996	25 Oct 1996 (see s. 2(1))
Reprint of the <i>Anzac Day Act 1960</i> as at 24 May 2002 (includes amendments listed above)			
<i>Acts Amendment (Equality of Status) Act 2003 Pt. 3</i>	28 of 2003	22 May 2003	1 Jul 2003 (see s. 2 and <i>Gazette</i> 30 Jun 2003 p. 2579)

Short title	Number and year	Assent	Commencement
<i>Racing and Gambling Legislation Amendment and Repeal Act 2003</i> s. 73 ⁴	35 of 2003	26 Jun 2003	1 Aug 2003 (see s. 2 and <i>Gazette</i> 29 Jul 2003 p. 3259)
<i>Anzac Day Amendment Act 2003</i>	62 of 2003	26 Nov 2003	26 Nov 2003 (see s. 2)
<i>Planning and Development (Consequential and Transitional Provisions) Act 2005</i> s. 15	38 of 2005	12 Dec 2005	9 Apr 2006 (see s. 2 and <i>Gazette</i> 21 Mar 2006 p. 1078)

² Footnote no longer applicable.

³ Repealed by the *Liquor Act 1970* which was repealed by the *Liquor Licensing Act 1988*.

⁴ The *Racing and Gambling Legislation Amendment and Repeal Act 2003* s. 19 reads 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.

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