

RACING AMENDMENT ACT 1984

No. 35 of 1984

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RACING AMENDMENT ACT 1984

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 No. 35 of 1984
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AN ACT to amend the Racing Act 1983.

[Royal Assent 20 June 1984]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—This Act may be cited as the *Racing Amendment Act 1984*. Short title.

2—(1) Except as provided in subsection (2), this Act shall commence on the day on which it receives the royal assent. Commencement.

(2) Sections 5 and 17 shall commence on a day to be fixed by proclamation.

3—In this Act, the *Racing Act 1983** is referred to as the Principal Act. Principal Act.

* No. 87 of 1983.

Amendment of section 9 of Principal Act (Special powers of the Directorate).

4—Section 9 (1) of the Principal Act is amended by inserting after paragraph (c) the following paragraph:—

(ca) may use for the other purposes of this subsection payments received by or on behalf of the Directorate on account of interest and other charges payable to it in respect of investments under paragraph (a) and loans under paragraph (c) and on account of payments so received in respect of leases granted by, and rents and fees payable to, the Directorate;

Amendment of section 11 of Principal Act (Staff).

5—(1) Section 11 (1) of the Principal Act is amended by omitting “, in accordance with the *Public Service Act 1973*,”.

(2) Section 11 of the Principal Act is further amended by inserting the following subsections after subsection (1):—

(1A) Schedule 1A has effect with respect to the term of office and conditions of service of the Director.

(1B) The appointment of an officer referred to in subsection (1), other than the Director, shall be in accordance with the *Public Service Act 1973*.

Insertion in Principal Act of new section 11A.

6—After section 11 of the Principal Act, the following section is inserted:—

11A—(1) The Directorate may, with the approval of the Minister, appoint and employ on a part-time basis—

(a) bookmakers’ supervisors to work for the Directorate;
and

(b) stewards, handicappers, freeze-branders, and other persons engaged in such occupations as may be prescribed by the regulations.

(2) The Directorate shall specify with which Board a person appointed and employed under subsection (1) (b) is required to work.

(3) In subsection (2), “Board” means the Tasmanian Principal Clubs Board, the Tasmanian Greyhound Racing Board, or the Tasmanian Harness Racing Board.

(4) The provisions of the *Public Service Act 1973* do not apply to a person appointed and employed under subsection (1).

Part-time employees of Directorate and certain boards.

(5) The terms and conditions of employment of persons appointed and employed under subsection (1)—

(a) that relate to remuneration and allowances shall be in accordance with an industrial award relating to persons engaged in the work for which those first-mentioned persons are appointed and employed; and

(b) that relate to leave and any other matters shall be the same as those relating to those matters in respect of persons appointed and employed under the *Public Service Act* 1973.

(6) The Governor may make regulations for the purposes of this section.

(7) For the purposes of this section, “ industrial award ” means—

(a) an order or award under the *Conciliation and Arbitration Act* 1904 of the Commonwealth and an agreement under that Act having the force of an order or award; or

(b) an award under the *Industrial Relations Act* 1975.

7—After section 16 of the Principal Act, the following section is inserted in Part II:—

Insertion in Principal Act of new section 16A.

16A—A member of the Directorate, and an officer appointed under section 11 who is authorized for that purpose, in writing, by the Directorate, are entitled at any time without payment of a fee or charge to enter, and remain on, a racecourse, whether a registered racecourse or not.

Members of Directorate, &c., to have free entry to racecourses.

8—Section 19 (2) of the Principal Act is amended by inserting “, including, without prejudice to the generality of the foregoing, rules with respect to the institution, hearing, and determination of appeals to the Board ”, after “ rules of racing ”.

Amendment of section 19 of Principal Act (Functions of the Board).

9—After section 20 of the Principal Act, the following section is inserted in Part III:—

Insertion in Principal Act of new section 20A.

20A—(1) The Board may, with the approval of the Minister, make rules—

Rules of the Board.

(a) authorizing the Board to make levies on racing clubs for the purpose of meeting the liabilities and expenses of the Board;

- (b) providing for the keeping and audit of the accounts of the Board; and
- (c) requiring the payment of the money received by the Board into an account at a bank and regulating the withdrawal of any of that money from that account.

(2) Rules made for the purposes of paragraph (a) of subsection (1) may make different provision with respect to different racing clubs and, in particular, may specify, or authorize the Board to determine, the basis on which the amount of a levy referred to in that paragraph is to be determined.

Insertion in
Principal Act
of new
section 24A.

10—After section 24 of the Principal Act, the following section is inserted in Part IV:—

Rules of the
Board.

24A—(1) The Board may, with the approval of the Minister, make rules—

- (a) authorizing the Board to make levies on greyhound racing clubs for the purpose of meeting the liabilities and expenses of the Board;
- (b) providing for the keeping and audit of accounts of the Board; and
- (c) requiring the payment of the money received by the Board into an account at a bank and regulating the withdrawal of any of that money from that account.

(2) Rules made for the purposes of paragraph (a) of subsection (1) may make different provision with respect to different greyhound racing clubs and, in particular, may specify, or authorize the Board to determine, the basis on which the amount of a levy referred to in that paragraph is to be determined.

Amendment of
section 25 of
Principal Act
(The Tas-
manian Racing
Appeal Board).

11—Section 25 of the Principal Act is amended by inserting after subsection (2) the following subsection:—

(3) Schedule 1 has effect with respect to the constitution and membership of the Board.

12—After section 25 of the Principal Act, the following section is inserted:—

Insertion in Principal Act of new section 25A.

25A—The deputy chairman of the Board shall assist the chairman of the Board in the exercise and performance of the chairman's powers and functions under this Part and shall act as the chairman during any absence from office of the chairman and during any vacancy in the office of the chairman and, while so acting, the deputy chairman shall exercise and perform the powers and functions of the chairman as fully and effectively as they may be exercised and performed by the chairman.

Powers and functions of deputy chairman of Board.

13—Section 26 of the Principal Act is repealed and the following section is substituted:—

Substitution of section 26 of Principal Act.

26—(1) Subject to subsection (2), a person (in this section referred to as "the appellant") who is aggrieved by a decision of a horse-racing club, harness racing club, or greyhound racing club or of the stewards of such a club, imposing—

Appeals to the Board from decisions of certain clubs, &c.

(a) a suspension or disqualification for a period exceeding one month; or

(b) a fine exceeding \$500,

may, within 14 days after the making of the decision, appeal to the Board.

(2) If the chairman of the Board certifies in writing that a decision referred to in subsection (1) is one relating to a minor matter, an appeal from that decision may not be made to the Board under that subsection.

(3) An appeal under subsection (1) shall be instituted by lodging a written notice of appeal with the secretary to the Board.

(4) A notice of appeal under subsection (1) shall specify—

(a) the name and address of the appellant;

(b) the decision appealed from; and

(c) the grounds of appeal.

(5) On the lodgment with him of a notice of appeal under subsection (1), the secretary to the Board shall request the chairman of the Board to fix a time and place for the hearing of the appeal.

(6) On the time and place for the hearing of an appeal under subsection (1) being fixed pursuant to subsection (5), the secretary to the Board shall—

(a) give notice of that time and place by post to the address of the appellant as specified in the notice of appeal; and

(b) by post, serve on the secretary of the club or the stewards of the club, as the case may be, a copy of the notice of appeal, together with a notice of that time and place.

(7) At the hearing of an appeal under subsection (1), the Board may confirm, vary, or quash the decision in respect of which the appeal was made.

(8) The Board shall cause notice of its determination in relation to an appeal under subsection (1) to be given to the parties to the appeal.

(9) A determination of the Board in relation to an appeal under subsection (1) is final and shall be deemed to be the decision of the club, or of the stewards of the club, to which the determination relates.

(10) Notwithstanding any law or rule of law to the contrary or anything contained in the Rules of Racing or in the constitution, rules, or articles of a horse-racing club, harness racing club, or greyhound racing club, an appeal may not, after the commencement of the *Racing Amendment Act 1984*, be made to the committee of such a club in respect of a decision in relation to which an appeal lies to the Board by virtue of subsection (1).

(11) A person who is aggrieved by a decision of a horse-racing club, harness racing club, or greyhound racing club or of the stewards of such a club—

(a) imposing—

(i) a suspension or disqualification for a period not exceeding one month; or

(ii) a fine not exceeding \$500; or

(b) which is certified under subsection (2) as one relating to a minor matter,

may appeal to the appropriate controlling body.

(12) An appeal under subsection (11) to an appropriate controlling body shall be heard and determined in accordance with its own rules.

(13) A determination of an appropriate controlling body under subsection (12) is final and shall be deemed to be the decision of the club, or of the stewards of the club, to which the determination relates.

14—(1) Section 28 of the Principal Act is amended by inserting the following subsection after subsection (2):—

Amendment of section 28 of Principal Act (Quorum).

(2A) The chairman shall preside at all hearings of the Board at which he is present.

(2) Section 28 of the Principal Act is further amended by omitting subsection (3) and substituting the following subsection:—

(3) If the chairman is not present at a hearing of the Board, the deputy chairman, or, if he is also absent from the hearing, such other member of the Board as the members present elect, shall preside at that hearing.

15—After section 31 of the Principal Act, the following sections are inserted:—

Insertion in Principal Act of new sections 32 and 33.
Rules of the Board.

32—The Board may, with the approval of the Minister, make rules—

- (a) providing for the keeping and audit of the accounts of the Board; and
- (b) requiring the payment of the money received by the Board into an account at a bank and regulating the withdrawal of any of that money from that account.

33—The expenses incurred by the Board in the administration of this Part shall be paid out of money to be provided by Parliament for that purpose.

Expenses of the Board.

16—The heading to Schedule 1 to the Principal Act is amended by omitting “ 21 (4)” and substituting “ 21 (4), 25 (3)”.

Amendment of Schedule 1 to Principal Act.

Insertion in
Principal Act
of new
Schedule 1A.

17—After Schedule 1 to the Principal Act, the following Schedule is inserted:—

SCHEDULE 1A

Section 11 (1A)

TERM OF OFFICE AND CONDITIONS OF SERVICE OF DIRECTOR

Term of office
of Director.

1—The Director shall be appointed for such term, not exceeding 5 years, as is specified in the instrument of his appointment and shall, if otherwise qualified, be eligible for reappointment from time to time for such term, not exceeding 5 years, as may be specified in the instrument of his reappointment.

Age of
Director.

2—A person who has attained the age of 65 years shall not be appointed or reappointed as Director.

Certain persons
disqualified
from being
appointed to
office of
Director.

3—(1) A person who is a member of a House of Parliament of the Commonwealth, or of a State or Territory of the Commonwealth, or a candidate for election as a Member of such House of Parliament, is disqualified from being appointed to the office of Director, and if a person holding that office becomes a candidate for election as such a member, he thereupon vacates his office.

(2) For the purposes of subclause (1), a person becomes a candidate for election as a Member of a House of Parliament when he is nominated for that election in accordance with the law regulating the election.

Director not
to engage in
paid employ-
ment outside
the duties of
his office.

4—The Director shall not, without the permission of the Governor, hold any other office of profit or engage in any occupation for reward outside the duties of his office.

Remuneration
of Director.

5—The Director is entitled to such remuneration and allowances as the Governor determines, and holds office subject to such terms and conditions (if any) with respect to matters not provided for in this Act as are specified in the instrument of his appointment.

Director
deemed to be
employee for
certain
purposes.

6—The Director shall be deemed to be an employee for the purposes of the *Retirement Benefits Act* 1982 and the *State Employees (Long-Service Leave) Act* 1950.

*Public Service
Act* 1973 not
to apply.

7—The provisions of the *Public Service Act* 1973 do not apply to, or in respect of, the appointment of the Director by the Governor and the Director is not subject to the provisions of that Act during his term of office as Director.

Director
entitled to
retain certain
rights in
certain cir-
cumstances.

8—(1) Where an officer of the Public Service or a person temporarily employed in the Public Service is appointed as Director, he is entitled to retain all his existing and accruing rights as if his service as Director were a continuation of his service as an officer of the Public Service or, as the case may be, as a person so temporarily employed.

(2) Where a person referred to in subclause (1) ceases to hold the office of Director and becomes an officer of the Public Service, his service in that office shall be regarded as service in the Public Service for the purposes of determining his rights as an officer of the Public Service.

(3) In this clause—

“officer of the Public Service” means a person employed in any capacity in any branch of the Public Service, but does not include a person temporarily employed;

“Public Service” has the meaning assigned to that expression in the *Public Service Act 1973*.

9—(1) The Director shall be deemed to have vacated his office— Vacation of office.

- (a) when he dies;
- (b) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors, or makes an assignment of his remuneration or estate for their benefit;
- (c) if he resigns his office by writing under his hand addressed to the Governor and the Governor accepts his resignation;
- (d) if he becomes liable to be detained under the *Mental Health Act 1963* in a hospital, being a hospital within the meaning of section 3 (1) of that Act;
- (e) if he is convicted in Tasmania of a crime or an offence which is punishable by imprisonment for not less than 12 months, or if he is convicted elsewhere than in Tasmania of an offence which, if committed in Tasmania, would be a crime or an offence so punishable;
- (f) if he absents himself from duty for a period exceeding 14 days, except—
 - (i) on leave granted by the Minister; or
 - (ii) through illness or other unavoidable cause;
- (g) if he contravenes clause 4;
- (b) if he is removed from office by the Governor under subclause (2); or
- (i) on his attaining the age of 65 years.

(2) The Governor may remove the Director from office for misbehaviour, neglect of duty, or incompetence.

Validations.

18—(1) Where, during the period commencing on 13th February 1984 and ending immediately before the day on which this Act receives the royal assent, a person was appointed and employed on a part-time basis by the Directorate to work for the Directorate in any capacity or for the Tasmanian Principal Clubs Board, the Tasmanian Greyhound Racing Board, or the Tasmanian Harness Racing Board in any capacity, the appointment and employment of that person to work for the Directorate or to work for such a board shall be, and be deemed always to have been, valid and effectual.

(2) Where, during the prescribed period, a person acted on behalf of the Tasmanian Principal Clubs Board, the Tasmanian Greyhound Racing Board, or the Tasmanian Racing Appeal Board by keeping the accounts of that board, paying money received by that board into an account at a bank, or withdrawing any of that money from such an account, that person shall be deemed to have had the authority to act under the Principal Act on behalf of that board as so mentioned.

(3) In subsection (2), “prescribed period”, in relation to—

- (a) the Tasmanian Principal Clubs Board, means the period commencing on 13th February 1984 and ending immediately before the date on which rules made by that board under section 20A of the Principal Act (as inserted by this Act) take effect;
- (b) the Tasmanian Greyhound Racing Board, means the period commencing on 13th February 1984 and ending immediately before the date on which rules made by that board under section 24A of that Act (as inserted by this Act) take effect; or
- (c) the Tasmanian Racing Appeal Board, means the period commencing on 13th February 1984 and ending immediately before the date on which rules made by that board under section 32 of that Act (as inserted by this Act) take effect.