

**TASMANIA**

RACING AND GAMING AMENDMENT ACT 1993

No. 53 of 1993

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**RACING AND GAMING AMENDMENT ACT 1993**

No. 53 of 1993

AN ACT to amend the *Racing and Gaming Act 1952***[Royal Assent 10 September 1993]**

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:—

Short title

1—This Act may be cited as the *Racing and Gaming Amendment Act 1993*.

Commencement

2—This Act commences on the day on which it receives the Royal Assent.

Principal Act

3—In this Act, the *Racing and Gaming Act 1952** is referred to as the Principal Act.

Section 3 amended (Interpretation)

4—Section 3 of the Principal Act is amended as follows:—

- (a) by omitting “but excludes” from the definition of “lottery” and substituting “and includes a sweepstake and a tipping competition but does not include”;
- (b) by inserting the following definition after the definition of “ticket”:—

“tipping competition” means a competition involving the prediction of the outcome or occurrence of an event being a competition in which valuable consideration is given for the right to participate and a prize is distributed based on the accuracy of the predictions of the participants;

Section 83 amended (Application of Part VI)

5—Section 83 (1) of the Principal Act is amended by omitting paragraph (d) and substituting the following paragraphs:—

- (d) a find the ball, missing ball or similar competition if at least half the entrance money received by the promoter is given to an organization approved by the Commission with the remainder being distributed as prize money; or
- (e) a tipping competition in which the outcome or occurrence of a sporting event is tipped where—
 - (i) the total contributions do not exceed \$2 000; and
 - (ii) a participant does not contribute more than \$20; and
 - (iii) the total sum contributed, without any deduction, is distributed as prizes in money or money’s worth.

* No. 98 of 1952. For this Act, as amended to 1975, see Appendix D to the Annual Volume of Statutes for 1974. Subsequently amended by No. 71 of 1975, No. 85 of 1976, No. 104 of 1977, No. 54 of 1978, Nos. 19 and 73 of 1979, No. 90 of 1980, Nos. 9, 10 and 99 of 1982, Nos. 40 and 83 of 1983, Nos. 29 and 36 of 1984, Nos. 51, 89 and 123 of 1985, Nos. 13 and 31 of 1986, Nos. 39, 42 and 86 of 1987, Nos. 1 and 48 of 1988, No. 32 of 1989, Nos. 5, 22 and 40 of 1990, Nos. 39 and 40 of 1991 and No. 37 of 1992.

Section 87E substituted

6—Section 87E of the Principal Act is repealed and the following section is substituted:—

Approved representatives

87E—(1) The holder of a pool betting licence may appoint a person approved by the Minister to be a representative of the holder for the purpose of conducting any pool authorized by the licence.

(2) The Minister may revoke approval of a person under subsection (1) by written notice given to the holder of the pool betting licence.

Section 88AB substituted

7—Section 88AB of the Principal Act is repealed and the following section is substituted:—

Controlled activities

88AB—(1) In this section—

“**cash ticket**” means a chance to win a prize in a disposition of prizes where each prize is an amount of money;

“**controlled activity**” means—

- (a) the sale of a cash ticket or a liquor ticket; or
- (b) the activity known as punchboard; or
- (c) an activity prescribed in the regulations as a controlled activity for the purposes of this section;

“**liquor**” has the same meaning as in the *Liquor and Accommodation Act 1990*;

“**liquor licence**” has the same meaning as in the *Liquor and Accommodation Act 1990*;

“**liquor ticket**” means a chance to win a prize in a disposition of prizes where each prize is an amount of liquor;

“**net profit**”, in respect of a controlled activity, means the amount derived from the sale of chances to win prizes in that activity less the reasonable cost of obtaining the materials required to conduct the activity (including any stamp duty) and the value of the prizes;

“**permit**” means a permit issued by the Commission in accordance with this section;

“**quarter**” means any period of 3 months ending on 31 March, 30 June, 30 September or 31 December;

“**ticket**”, in relation to a cash ticket or a liquor ticket, includes a card, an envelope or a similar token.

(2) A person must not—

(a) sell a chance to win a prize by means of a controlled activity; or

(b) dispose of a prize by means of a controlled activity—

unless authorized to do so by a permit.

Penalty: Fine not exceeding 30 penalty units.

(3) An application for a permit is to be made to the Commission on a form provided or approved for the purpose by the Commission and is to be accompanied by any prescribed fee.

(4) The Commission must not issue a permit unless—

(a) the Commission is satisfied that the net profit arising from the controlled activity will be used for a purpose approved by the Commission, being a purpose that does not allow for the private gain of any person; and

(b) in the case of a permit authorizing the sale of liquor tickets—the applicant is the holder of a liquor licence.

(5) The Commission may issue a permit subject to conditions including, in particular, conditions relating to the following:—

(a) the conduct of the controlled activity;

(b) the time when, and the place where, the controlled activity may be conducted;

(c) the maximum price that may be charged for a chance to win a prize in a controlled activity.

(6) The Commission must impose in any permit issued by the Commission authorizing the sale of cash tickets or liquor tickets—

- (a) a condition that the holder of the permit does not purchase the tickets except from a licensed supplier, as defined in the *Stamp Duties Act 1931*; and
- (b) a condition that the tickets are in a form approved by the Commission.

(7) The Commission must specify any conditions imposed pursuant to subsection (5) or (6) in the permit.

(8) A permit does not authorize—

- (a) the sale of a chance to win a prize in a controlled activity; or
- (b) the disposal of a prize by means of a controlled activity—

unless all the conditions specified in the permit are complied with.

(9) The Commission may issue a permit for a specified period or for a period terminable by the Commission giving to the holder of the permit 28 days written notice.

(10) Notwithstanding subsection (9), the Commission may terminate a permit at any time if the Commission is satisfied—

- (a) that any condition specified in it has not been complied with; or
- (b) that any return required to be made by the holder of the permit in accordance with subsection (12) has not been provided by the time specified in that subsection; or
- (c) that a net profit is not being used for a purpose approved by the Commission.

(11) Notwithstanding subsection (9), a permit that authorizes the sale of liquor tickets ceases to be valid if the holder of the permit ceases to be the holder of a liquor licence.

(12) Unless exempted from doing so by the Commission, the holder of a permit must, within 14 days after the end of each quarter, provide the Commission with a return, in a form approved by the Commission, showing—

- (a) particulars of the proceeds of sales of chances to win; and
- (b) the distribution of the proceeds of the sale of chances to win—

in controlled activities authorized by the permit during that quarter.

Penalty: Fine not exceeding 10 penalty units.

(13) If the holder of a permit fails to provide a return to the Commission in accordance with subsection (12) within the time specified in that subsection or such longer period as the Commission may allow, the holder of the permit must pay to the Commission the prescribed late administration fee.

(14) If the holder of a permit fails to use a net profit for a purpose approved by the Commission the holder of the permit must pay to the Commission an amount equal to that net profit.

(15) A late administration fee payable by virtue of subsection (13) or an amount equal to a net profit payable by virtue of subsection (14) is a debt due to the Commission and may be sued for by the Commission, or by a person appointed by the Commission for the purpose, in a court of competent jurisdiction.

(16) If a person is convicted of an offence under subsection (2) the court before which that person is convicted must, in addition to any other penalty it imposes, order that person to pay to the Commission such amount as it considers fairly represents the net profit derived by that person in conducting the controlled activity constituting the offence.

(17) The holder of a liquor licence must not permit a controlled activity to be conducted on the premises specified in his or her licence unless the activity is authorized by a permit.

Penalty: Fine not exceeding 30 penalty units.

Section 106A substituted

8—Section 106A of the Principal Act is repealed and the following section is substituted:—

Power of officers to attend gaming activities, &c.

106A—(1) An officer of the Commission, authorized to do so by the Commission, and any police officer may enter and remain on any premises where any gaming activity authorized in accordance with Part VI is being, or is about to be, conducted or while any person remains on the premises after the conduct of the activity.

(2) An officer referred to in subsection (1) may, while on the premises—

- (a) inspect any books, accounts, records or documents or any equipment that is capable of being used in connection with the gaming activity; and
- (b) ask any person on the premises to give the officer that person's name, age, address and any information known to that person relating to the conduct of the activity.

Section 112 amended (Evidentiary provisions)

9—Section 112 of the Principal Act is amended by inserting after subsection (13) the following subsection:—

(14) In any proceedings in respect of an offence against this Act, a certificate sealed or purporting to be sealed by the Commission, certifying that on a specified date a specified person was or was not authorized or approved in accordance with this Act to conduct gaming or lotteries, is evidence of the matter so certified.

Section 114 amended (Avoidance of agreements relating to gaming)

10—Section 114 (3) of the Principal Act is amended as follows:—

- (a) by omitting from paragraph (c) “Part V.” and substituting “Part V; or”;

- (b) by inserting the following paragraph after paragraph (c):—
- (d) an arrangement where, for the purpose of enabling a person to take part in gaming or wagering, that person receives in exchange for a cheque that is not postdated—
- (i) cash equal to the amount for which the cheque is drawn; or
 - (ii) tokens at the same rate as would apply if cash were given for them; or
 - (iii) a document that is redeemable by the holder for—
 - (A) cash equal to the amount for which the cheque is drawn; or
 - (B) tokens at the same rate as would apply if cash were given for them.

Section 119 amended (Regulations)

11—Section 119 (2) of the Principal Act is amended by omitting paragraph (da) and substituting the following paragraphs:—

- (da) prescribe the fees that are payable for the grant or renewal of an authorization to conduct a raffle, game or calcutta sweepstake in accordance with Division II of Part VI, being fees which may relate to—
- (i) the profit, either gross or net; or
 - (ii) the turnover; or
 - (iii) the value of prizes—
in respect of the raffle, game or calcutta sweepstake;
- (db) prescribe the fees that are payable under section 88AB for a permit authorizing the conduct of a controlled activity, as defined by that section, being fees which may relate to—
- (i) the profit, either gross or net; or
 - (ii) the turnover; or
 - (iii) the value of prizes—
in respect of the activity;

Amendment of penalties

12—The Principal Act is amended by omitting from each provision of it specified in column 2 of Schedule 1 the expression appearing in column 3 opposite that provision and substituting the expression appearing in column 4.

Transitional provision

13—A permit issued under section 88AB of the Principal Act and in force immediately before the commencement of this Act is to be taken to have included in it the conditions referred to in section 88AB (6) of the Principal Act as substituted by this Act.

SCHEDULE 1

Section 11

AMENDMENT OF PENALTIES

COLUMN 1 Item No.	COLUMN 2 Provision of Principal Act	COLUMN 3 Expression omitted	COLUMN 4 Expression substituted
1.	20 (1)	\$200.	Fine not exceeding 20 penalty units.
2.	20A (1)	\$200.	Fine not exceeding 20 penalty units.
3.	20B (4)	\$200.	Fine not exceeding 20 penalty units.
4.	20B (5)	\$200.	Fine not exceeding 20 penalty units.
5.	25 (1)	\$200.	Fine not exceeding 20 penalty units.
6.	39 (8)	For a first offence, \$300; for a subsequent offence, \$600 or 3 months' imprisonment.	Fine not exceeding 20 penalty units in respect of a first offence and a fine not exceeding 30 penalty units or imprisonment for a term not exceeding 3 months in respect of a subsequent offence.
7.	57ZG	For a first offence, \$500 or imprisonment for 3 months; for any subsequent offence, imprisonment for 6 months.	Fine not exceeding 20 penalty units or imprisonment for a term not exceeding 3 months in respect of a first offence and a fine not exceeding 30 penalty units or imprisonment for a term not exceeding 6 months in respect of a subsequent offence.
8.	57ZH (2)	\$250.	Fine not exceeding 20 penalty units.
9.	57ZJ	For a first offence, \$500 or imprisonment for 3 months; for a second offence, \$1 000 or imprisonment for 6 months; for any subsequent offence, imprisonment for 12 months.	Fine not exceeding 20 penalty units or imprisonment for a term not exceeding 3 months in respect of a first offence, a fine not exceeding 30 penalty units or imprisonment for a term not exceeding 6 months in respect of a second offence and imprisonment for a term not exceeding 12 months in respect of a subsequent offence.

SCHEDULE 1—continued

COLUMN 1 Item No.	COLUMN 2 Provision of Principal Act	COLUMN 3 Expression omitted	COLUMN 4 Expression substituted
10.	57ZK	For a first offence, \$500 or imprisonment for 3 months; for any subsequent offence, imprisonment for 6 months.	Fine not exceeding 20 penalty units or imprisonment for a term not exceeding 3 months in respect of a first offence and imprisonment for a term not exceeding 6 months in respect of a subsequent offence.
11.	57ZL	For a first offence, \$200; for any subsequent offence, \$500.	Fine not exceeding 20 penalty units in respect of a first offence and a fine not exceeding 30 penalty units in respect of a subsequent offence.
12.	57ZM	For a first offence, \$50; for any subsequent offence, \$250.	Fine not exceeding 20 penalty units.
13.	57ZN	For a first offence, \$200; for any subsequent offence, \$500.	Fine not exceeding 20 penalty units in respect of a first offence and a fine not exceeding 30 penalty units in respect of a subsequent offence.
14.	57ZQ (4)	a penalty not exceeding \$200.	a fine not exceeding 20 penalty units.
15.	57ZQ (5)	\$250.	Fine not exceeding 20 penalty units.
16.	57ZQ (6)	\$250.	Fine not exceeding 20 penalty units.
17.	60AA (1)	a penalty not exceeding \$300.	a fine not exceeding 20 penalty units.
18.	75 (1)	For a first offence, \$50; for a subsequent offence, \$250.	Fine not exceeding 20 penalty units.
19.	75 (3)	\$150.	Fine not exceeding 20 penalty units.
20.	76 (1)	For a first offence, \$75; for a subsequent offence, \$350.	Fine not exceeding 20 penalty units.
21.	76 (3)	For a first offence, \$50; for a subsequent offence, \$250.	Fine not exceeding 20 penalty units.
22.	76 (3A)	For a first offence, \$50; for a subsequent offence, \$200.	Fine not exceeding 20 penalty units.
23.	77 (1)	For a first offence, \$1 500; for a subsequent offence, \$3 000 or 6 months' imprisonment.	Fine not exceeding 30 penalty units in respect of a first offence and a fine not exceeding 50 penalty units or imprisonment for a term not exceeding 6 months in respect of a subsequent offence.

SCHEDULE 1—continued

COLUMN 1 Item No.	COLUMN 2 Provision of Principal Act	COLUMN 3 Expression omitted	COLUMN 4 Expression substituted
24.	77 (1B)	For a first offence, \$200; for a subsequent offence, \$350.	Fine not exceeding 20 penalty units in respect of a first offence and a fine not exceeding 30 penalty units in respect of a subsequent offence.
25.	77 (2)	\$150.	Fine not exceeding 20 penalty units.
26.	78 (1)	For a first offence, \$150; for a subsequent offence, \$300.	Fine not exceeding 20 penalty units in respect of a first offence and a fine not exceeding 30 penalty units in respect of a subsequent offence.
27.	79	\$75.	Fine not exceeding 20 penalty units.
28.	85A (8A)	\$2 000.	Fine not exceeding 50 penalty units.
29.	85A (8B)	\$2 000.	Fine not exceeding 50 penalty units.
30.	87 (1)	\$700.	Fine not exceeding 30 penalty units.
31.	87F (1)	\$4 000.	Fine not exceeding 50 penalty units.
32.	87F (2)	\$1 000.	Fine not exceeding 30 penalty units.
33.	87P (4)	2 penalty units.	20 penalty units.
34.	88 (2)	\$200.	Fine not exceeding 10 penalty units.
35.	88A (1)	4 penalty units.	20 penalty units.
36.	88A (4)	4 penalty units.	20 penalty units.
37.	88A (7)	4 penalty units.	20 penalty units.
38.	88B (5)	For a first offence, \$200; for a subsequent offence, \$500.	Fine not exceeding 30 penalty units.
39.	88C (7)	For a first offence, \$200; for a subsequent offence, \$500.	Fine not exceeding 30 penalty units.
40.	88D (1B)	For a first offence, \$200; for a subsequent offence, \$500.	Fine not exceeding 30 penalty units.
41.	90 (1)	For a first offence, \$1 500; for a subsequent offence, \$3 000 and 6 months' imprisonment.	Fine not exceeding 30 penalty units in respect of a first offence and a fine not exceeding 50 penalty units or imprisonment for a term not exceeding 6 months in respect of a subsequent offence.
42.	90 (2)	\$350.	Fine not exceeding 20 penalty units.

SCHEDULE 1—*continued*

COLUMN 1 Item No.	COLUMN 2 Provision of Principal Act	COLUMN 3 Expression omitted	COLUMN 4 Expression substituted
43.	90 (3)	\$700.	Fine not exceeding 30 penalty units.
44.	91 (1)	\$700.	Fine not exceeding 30 penalty units.
45.	91 (2)	\$250.	Fine not exceeding 20 penalty units.
46.	91 (3)	\$250.	Fine not exceeding 20 penalty units.
47.	91 (4)	\$150.	Fine not exceeding 20 penalty units.
48.	91 (4A)	\$150.	Fine not exceeding 20 penalty units.
49.	91 (6)	\$100.	Fine not exceeding 10 penalty units.
50.	91 (7)	\$150.	Fine not exceeding 20 penalty units.
51.	93 (1)	\$1 500 or 6 months' imprisonment.	Fine not exceeding 30 penalty units or imprisonment for a term not exceeding 6 months.
52.	93 (2)	\$150.	Fine not exceeding 20 penalty units.
53.	95 (1)	\$1 200 or 6 months' imprisonment.	Fine not exceeding 30 penalty units or imprisonment for a term not exceeding 6 months.
54.	95 (2)	\$600 or 3 months' imprisonment.	Fine not exceeding 20 penalty units or imprisonment for a term not exceeding 3 months.
55.	95 (3)	\$600 or 3 months' imprisonment.	Fine not exceeding 20 penalty units or imprisonment for a term not exceeding 3 months.
56.	95 (4)	\$350.	Fine not exceeding 20 penalty units.
57.	96 (1)	\$600 or 3 months' imprisonment.	Fine not exceeding 20 penalty units or imprisonment for a term not exceeding 3 months.
58.	96 (2)	\$600 or 3 months' imprisonment.	Fine not exceeding 20 penalty units or imprisonment for a term not exceeding 3 months.
59.	96 (3)	\$600 or 3 months' imprisonment.	Fine not exceeding 20 penalty units or imprisonment for a term not exceeding 3 months.

SCHEDULE 1—continued

COLUMN 1 Item No.	COLUMN 2 Provision of Principal Act	COLUMN 3 Expression omitted	COLUMN 4 Expression substituted
60.	97 (1)	\$600 or 3 months' imprisonment.	Fine not exceeding 20 penalty units or imprisonment for a term not exceeding 3 months.
61.	98 (1)	For a first offence, \$20 000 or 6 months' imprisonment or both; for a second offence, \$30 000 or 12 months' imprisonment or both; for a subsequent offence, \$50 000 or 2 years' imprisonment or both.	Fine not exceeding 200 penalty units or imprisonment for a term not exceeding 6 months or both in respect of a first offence, a fine not exceeding 300 penalty units or imprisonment for a term not exceeding 12 months or both in respect of a second offence and a fine not exceeding 500 penalty units or imprisonment for a term not exceeding 2 years or both in respect of a subsequent offence.
62.	98 (1A)	\$1 250.	Fine not exceeding 30 penalty units.
63.	99	For a first offence, \$20 000; for a second offence, \$30 000 or 6 months' imprisonment or both; for a subsequent offence, \$50 000 or 12 months' imprisonment or both.	Fine not exceeding 200 penalty units in respect of a first offence, a fine not exceeding 300 penalty units or imprisonment for a term not exceeding 6 months or both in respect of a second offence and a fine not exceeding 500 penalty units or imprisonment for a term not exceeding 12 months or both in respect of a subsequent offence.
64.	100 (3)	For a first offence, \$250; for a subsequent offence, \$600 or 3 months' imprisonment.	Fine not exceeding 20 penalty units in respect of a first offence and a fine not exceeding 30 penalty units or imprisonment for a term not exceeding 6 months in respect of a subsequent offence.
65.	105 (6)	\$250 or one month's imprisonment.	Fine not exceeding 20 penalty units or imprisonment for a term not exceeding one month.

SCHEDULE 1—continued

COLUMN 1 Item No.	COLUMN 2 Provision of Principal Act	COLUMN 3 Expression omitted	COLUMN 4 Expression substituted
66.	105 (7)	\$250 or one month's imprisonment.	Fine not exceeding 20 penalty units or imprisonment for a term not exceeding one month.
67.	105 (9)	\$250.	Fine not exceeding 20 penalty units.
68.	110 (1)	\$600 or 3 months' imprisonment.	Fine not exceeding 20 penalty units or imprisonment for a term not exceeding 3 months.
69.	110 (2)	\$300 or one month's imprisonment.	Fine not exceeding 20 penalty units or imprisonment for a term not exceeding one month.
70.	110 (3)	\$350 or one month's imprisonment.	Fine not exceeding 20 penalty units or imprisonment for a term not exceeding one month.
71.	111	For a first offence, \$600; for a subsequent offence, \$1 200 or 6 months' imprisonment.	Fine not exceeding 20 penalty units in respect of a first offence and a fine not exceeding 30 penalty units or imprisonment for a term not exceeding 6 months in respect of a subsequent offence.
72.	116	\$600 or 3 months' imprisonment.	Fine not exceeding 20 penalty units or imprisonment for a term not exceeding 3 months.
73.	117 (1)	penalty of \$300	fine not exceeding 20 penalty units
74.	118	penalty not exceeding \$300.	fine not exceeding 20 penalty units.
75.	119 (3B)	penalty not exceeding \$500.	fine not exceeding 20 penalty units.
76.	119 (6)	penalty not exceeding \$350.	fine not exceeding 20 penalty units.

[Second reading presentation speech made in:—
House of Assembly on 12 May 1993
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