



TASMANIA

**RACING AND GAMING LEGISLATION
(MISCELLANEOUS AMENDMENTS) ACT 1991**

No. 39 of 1991

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**RACING AND GAMING LEGISLATION
(MISCELLANEOUS AMENDMENTS) ACT 1991**

No. 39 of 1991

AN ACT to amend the *Racing Act 1983*, *Racing and Gaming Act 1952* and *Sunday Observance Act 1968*

[Royal Assent 27 November 1991]

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:—

PART 1

PRELIMINARY

Short title

1—This Act. may be cited as the *Racing and Gaming Legislation (Miscellaneous Amendments) Act 1991*.

Commencement

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

PART 2**AMENDMENTS OF THE RACING ACT 1983*****Section 26 amended (Appeals to the Board from decisions of certain clubs, &c.)**

3—Section 26 of the *Racing Act 1983* is amended as follows:—

(a) by inserting after subsection (6A) the following subsection:—

(6B) Where the Board is satisfied that, on evidence produced at the hearing of an appeal under subsection (1), the appellant is not guilty of the offence in respect of which the appropriate controlling body, club or stewards has or have found the appellant guilty and imposed a suspension, disqualification or fine, or given a notice, under that subsection but may be guilty of an alternative offence with which he or she could be charged by the appropriate controlling body, club or stewards, the Board may, if it considers it just to do so and with the consent of the appellant, make any decision which the appropriate controlling body, club or stewards could make in relation to the alternative offence.

* No. 87 of 1983. Amended by No. 29 of 1984 (as amended by No. 63 of 1985), No. 35 of 1984, Nos. 25 and 123 of 1985, No. 32 of 1986, Nos. 28 and 86 of 1987 and Nos. 5, 22 and 37 of 1990.

(b) by inserting after subsection (11A) the following subsections:—

(11B) Where the chairperson of the Board is satisfied, on evidence received from a controlling body, that in the hearing and determination of an appeal under subsection (11) by the controlling body, a conflict of interests exists due to the involvement of a member or members of the controlling body in the part of the racing industry to which the appeal relates, the chairperson may, appoint a member of the Board to act in the office of a member of the controlling body in respect of whom such a conflict of interests exists in place of that member for the purpose of assisting the controlling body in the hearing and determination of the appeal.

(11C) The appointment of a member of the Board to act in the office of a member of a controlling body under subsection (11B) shall cease on the determination or abandonment of the appeal.

(11D) A member of the Board while acting in the office of a member of a controlling body pursuant to subsection (11B) shall be deemed to be a member of the controlling body with all the powers, rights and functions of such a member.

(11E) A person shall not be concerned to inquire whether or not any occasion has arisen requiring or authorizing a member of the Board to act in the office of a member of a controlling body pursuant to subsection (11B) for the purpose of assisting the controlling body in hearing and determining an appeal and all things done or omitted to be done by that member in the hearing and determination of an appeal shall be as valid and shall have the same consequences, as if they had been done by a member of the controlling body.

(11F) No act or proceeding of a controlling body in relation to the hearing and determination of an appeal is invalidated or prejudiced by reason only of the fact that a member of the Board acted in the office of a member of the controlling body pursuant to subsection (11B) for the purpose of hearing and determining the appeal.

Section 28A inserted

4—After section 28 of the *Racing Act 1983*, the following section is inserted:—

Protection of members of Board, &c.

28A—(1) A member of the Board has, in the performance of duties as a member, the same protection and immunity as a judge of the Supreme Court.

(2) A person appearing before the Board on behalf of a party to proceedings before the Board has the same protection and immunity as a barrister appearing for a party in proceedings in the Supreme Court.

PART 3**AMENDMENTS OF THE RACING AND GAMING ACT 1952*****Section 57U amended (Totalizator licences)**

5—Section 57U of the *Racing and Gaming Act 1952* is amended by inserting after subsection (1) the following subsections:—

(2) Notwithstanding subsection (1), the Authority may, with the approval of the Minister, grant to a committee a totalizator licence authorizing the committee to conduct totalizator betting on Sundays on such racecourses as may be specified in the licence and subject to such terms and conditions as may be specified in the licence.

(2A) Subsection (2) does not authorize the granting of totalizator licences on more than 2 Sundays in a racing year.

* No. 98 of 1952. For this Act, as amended to 1975, see Appendix D to the Annual Volume of Statutes of 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 and Nos. 5, 22 and 40 of 1990.

Section 57ZP substituted

6—Section 57ZP of the *Racing and Gaming Act 1952* is repealed and the following section is substituted:—

Persons under 18 years in totalizators

57ZP—It is not an offence against this Act to permit a person who is under the age of 18 years to enter or remain in a totalizator or to take such a person into a totalizator if—

- (a) the person is in the company of a parent or guardian or a spouse who is 18 years of age or more; and
- (b) the totalizator is—
 - (i) a part of licensed premises (as defined by the *Liquor and Accommodation Act 1990*) where, at the relevant time, people who are under the age of 18 years are permitted to enter or remain; or
 - (ii) on part of a registered racecourse.

PART 4**AMENDMENT OF THE SUNDAY OBSERVANCE ACT 1968*****Section 3 amended (Sunday work forbidden)**

7—Section 3 of the *Sunday Observance Act 1968* is amended by inserting the following subsections after subsection (2):—

(3) Notwithstanding subsection (1), a person may, on a Sunday in respect of which a totalizator licence has been granted under section 57U (2) of the *Racing and Gaming Act 1952* act as provided in subsection (1) (b), (c) or (d) if—

- (a) the person so acts, on a racecourse or elsewhere, for the purpose of, or in connection with, the conduct of totalizator betting on that racecourse under a totalizator licence in force under section 57U (2) of the *Racing and Gaming Act 1952*; or

* No. 32 of 1968. Amended by No. 2 of 1970, No. 99 of 1982 and No. 90 of 1985.

- (b) on a racecourse in respect of which such a totalizator licence is in force, the person so acts—
- (i) for the purpose of carrying on business as a bookmaker under a certificate of registration in force under section 59 of that Act or under a provisional certificate of registration in force under section 59A of that Act; or
 - (ii) for the purpose of carrying on business on behalf of a bookmaker under a substitute certificate of registration in force under section 59 (8) of that Act; or
 - (iii) as a bookmaker's clerk under a certificate of registration under section 59 (5) of that Act; or
 - (iv) as an officer or other employee of the club the committee of which holds that totalizator licence; or
 - (v) in the course of employment pursuant to section 11 (1AA) of the *Racing Act 1983*; or
- (c) the person so acts—
- (i) on a racecourse in respect of which such a totalizator licence is in force, or elsewhere, for the purpose of or in connection with, or incidental to or arising out of, the race meeting or a horse race or greyhound racing event, held on the racecourse pursuant to that licence; or
 - (ii) on such a racecourse for the purpose of riding or driving in such a horse race or providing a service or facility for persons attending that race meeting.

(4) Expressions used in subsection (3) that are defined in section 3 of the *Racing and Gaming Act 1952* have the same meanings as they have for the purposes of that Act.

PART 5**MISCELLANEOUS****Expiry**

8—The amendments effected by sections 5 and 7 expire 3 years after the day on which this Act receives the Royal Assent and, on that expiry, the *Racing and Gaming Act 1952* and the *Sunday Observance Act 1968* have effect as if those sections had not been enacted.

