

**COMPARE COPY**

**for**

**TAB (Disposal) Bill 2019**

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**Bill No. 128—2**

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# **TAB (Disposal) Bill 2019**

## **Contents**

### **Part 1 — Preliminary matters**

1. Short title
2. Commencement
3. Terms used
4. Purposes of section 8 disposal
5. Severance of things on land
6. Act binds Crown

### **Part 2 — Enabling disposal**

7. Disposal of TAB assets authorised
8. Minister may order disposal of TAB assets
9. Effecting disposal
10. Disposal of freehold land
11. Functions and powers of Minister
12. Functions and powers of RWWA
13. Functions and powers of corporate vehicles
14. Directions by Minister
15. Regulations about corporate vehicles and trusts

### **Part 3 — Implementing disposal**

#### **Division 1 — Transfer orders**

16. Minister may make transfer orders
17. Consequences of transfer orders
18. Completion of transactions for this Division
19. Effect of arrangements internal to transferors
20. Delivery and access to records
21. Registration of documents
22. Correction of errors in transfer orders

**Division 2 — Disclosure of information**

- 23. Authorised disclosure of information
- 24. Auditor General may disclose information
- 25. Offence of disclosing information

**Division 3 — Other matters**

- 26. Application of proceeds of disposal
- 27. Racing Infrastructure Fund
- 28. Provision by State of indemnities and guarantees
- 29. Takeover by State of certain obligations

**Part 4 — Provisions relating to  
corporate vehicles**

- 30. Application of this Part
- 31. Acquirer's powers and duties
- 32. Application of written laws to acquirer

**Part 5 — Miscellaneous matters**

- 33. Exemption from State tax
- 34. Effect of this Act on existing rights and obligations
- 35. No compensation payable
- 36. Regulations for the purposes of, or consequential  
on, section 8 disposals
- 37. Regulations

**Part 6 — *Betting Control Act 1954*  
amended**

- 38. Act amended
- 39. Long title replaced
- 40. Section 4 amended
- 41. Sections 4AB and 4AC inserted
  - 4AB. Term used: bookmaker
  - 4AC. Prohibited races, events and  
contingencies
- 42. Section 4A amended
- 43. Section 4B replaced
  - 4B. Betting on events
  - 4C. Rules of betting
- 44. Section 5 amended

- 45. Section 5A replaced
  - 5A. Communication and broadcasting of information
  - 5B. Conduct of bookmaking
- 46. Section 5C inserted
  - 5C. Betting on simulated races
- 47. Part 1A inserted

**Part 1A — Wagering licences**

**Division 1 — General**

- 6. Wagering licence and wagering licensee
- 7. Associates
- 8. Key employees
- 9. Determinations of good repute and public interest

**Division 2 — Applications for and grant of wagering licences**

- 10. Application for wagering licence
- 10A. Grant of wagering licence
- 10B. Fee for wagering licence
- 10C. Duration of wagering licence
- 10D. Wagering licence may authorise preparatory action
- 10E. Transfer of wagering licence
- 10F. No proprietary right in wagering licence

**Division 3 — Conditions of wagering licences**

- 10G. Financial assurance
- 10H. Racing industry arrangement
- 10I. Consumer protection policy
- 10J. General provisions relating to bets with wagering licensee

**Division 4 — Disciplinary and other actions concerning wagering licences**

- 10K. Commission may take or recommend disciplinary action
- 10L. Minister's power to amend, suspend or cancel wagering licence
- 10M. Suspension of wagering licence
- 10N. Surrender of wagering licence
- 10O. Appointment of temporary licensee if wagering licence suspended, cancelled, surrendered
- 10P. Directions necessary for transitioning to new wagering licence

**Division 5 — Miscellaneous**

- 10Q. Wagering licence agreements
- 10R. Minister may amend wagering licence on request
- 10S. Combined totalisator pool and fixed odds schemes
- 10T. Engaging contractors and appointing agents to assist wagering licensee
- 10U. Betting agencies
- 10V. Directions relating to betting agencies
- 10W. Wagering licensee to give notice to Commission about certain matters
- 10X. Approval of associates of wagering licensee
- 10Y. Commission may give directions to wagering licensee in relation to wagering business
- 10Z. Disclosure of certain information authorised
- 10ZA. Amount deducted as commission by wagering licensee
- 10ZB. Unclaimed moneys
- 10ZC. Authorisation for *Competition and Consumer Act 2010* (Cth) and Competition Code
- 10ZD. Confidential police information
- 48. Part 2 heading amended
- 49. Section 11G amended
- 50. Section 12 amended
- 51. Part 3 heading amended
- 52. Section 14 inserted
  - 14. Bets transmitted from racing club to wagering licensee
- 53. Section 14A deleted
- 54. Section 17 amended
- 55. Section 17B amended
- 56. Sections 17E and 17EA deleted
- 57. Section 20 amended
- 58. Section 20A amended
- 59. Section 20B amended
- 60. Section 20C amended
- 61. Section 21 amended
- 62. Section 22 amended
- 63. Section 22A amended
- 64. Section 23 amended
- 65. Section 24 amended

- 66. Section 25 amended
- 67. Sections 25A to 25E inserted
  - 25A. Restrictions on publication and use of WA race fields
  - 25B. Application for WA race field publication and use approval
  - 25C. Publication and use approval
  - 25D. Review by State Administrative Tribunal
  - 25E. Authorisation for *Competition and Consumer Act 2010* (Cth) and Competition Code
- 68. Section 27 amended
- 69. Section 27A amended
- 70. Section 27D deleted
- 71. Section 27E deleted
- 72. Section 27F deleted
- 73. Section 28C amended
- 74. Sections 28E to 29 replaced
  - 28E. Penalty for totalisator officers accepting instructions as to investments on totalisators
  - 28F. Non-application of s. 28D and 28E
  - 29. Penalty for providing credit
- 75. Section 30 amended
- 76. Section 31 amended
- 77. Section 32A amended
- 78. Section 33 replaced
  - 33. Regulations
- 79. Section 34 inserted
  - 34. Savings and transitional provision for *TAB (Disposal) Act 2019*
- 80. Various references to “race course” amended

**Part 7 — *Casino (Burswood Island) Agreement Act 1985* amended**

- 81. Act amended
  - 82. Section 3 amended
  - 83. Section 4G inserted
    - 4G. Fifteenth Supplementary Agreement ratified and implementation authorised
  - 84. Schedule 16 inserted
- Schedule 16 — Fifteenth Supplementary Agreement**

**Part 8 — Gaming and Wagering  
Commission Act 1987 amended**

- 85. Act amended
- 86. Section 3 amended
- 87. Section 6 amended
- 88. Section 7 amended
- 89. Section 8 amended
- 90. Section 18 amended
- 91. Section 20 amended
- 92. Section 20A amended
- 93. Section 24 amended
- 94. Section 40A amended
- 95. Section 43A amended
- 96. Section 64 amended
- 97. Section 80 amended
- 98. Section 93A amended
- 99. Part VA deleted
- 100. Section 109E inserted
  - 109E. Commission's functions as to complaints about wagering licensee
- 101. Section 110 amended
- 102. Section 110A amended
- 103. Section 110B deleted
- 104. Section 113 inserted
  - 113. Savings and transitional provisions for TAB (Disposal) Act 2019

**Part 9 — Racing and Wagering  
Western Australia Act 2003  
amended**

**Division 1 — Preliminary**

- 105. Act amended

**Division 2 — Provisions commencing on day  
after assent day**

- 106. Section 3 amended
- 107. Section 10 amended
- 108. Section 19 amended
- 109. Section 35 amended
- 110. Section 36 amended
- 111. Section 37 amended



- 112. Section 38 amended
- 113. Section 46 amended
- 114. Section 68 amended
- 115. Section 77 amended
- 116. Section 113 amended
- 117. Section 115 amended
- 118. Schedule 2 amended

**Division 3 — Provisions relating to  
commencement of wagering licence**

- 119. Long title replaced
- 120. Short title amended
- 121. Section 3 amended
- 122. Section 10 amended
- 123. Section 14 deleted
- 124. Section 24 deleted
- 125. Section 29 amended
- 126. Section 31 amended
- 127. Section 35 amended
- 128. Section 45 amended
- 129. Part 5 deleted
- 130. Section 68 amended
- 131. Section 86 deleted
- 132. Section 99 deleted
- 133. Part 7 Division 5 heading amended
- 134. Sections 103 and 104 deleted
- 135. Section 106 replaced
  - 106. Allocation of RWA's funds
- 136. Section 113 amended
- 137. Section 116 deleted
- 138. Section 120 deleted
- 139. Section 121 amended
- 140. Section 122 replaced
  - 122. Transitional and savings provisions for  
*TAB (Disposal) Act 2019*
- 141. Schedule 1 amended
- 142. Various references to “Racing and Wagering  
Western Australia” amended

**Division 4 — Provisions relating to new race  
field regime**

- 143. Section 35 amended
- 144. Section 107A replaced
  - 107A. Race field fees account

**Part 10 — Repeal and consequential  
amendments to other Acts**

- 145. *Anzac Day Act 1960* amended
- 146. *Constitution Acts Amendment Act 1899* amended
- 147. *Criminal Organisations Control Act 2012*  
amended
- 148. *Dog Act 1976* amended
- 149. *Financial Management Act 2006* amended
- 150. *Gaming and Betting (Contracts and Securities)  
Act 1985* amended
- 151. *Parliamentary Commissioner Act 1971* amended
- 152. *Public Sector Management Act 1994* amended
- 153. *Racing Bets Levy Act 2009* repealed
- 154. *Racing Penalties (Appeals) Act 1990* amended
- 155. *Racing Restriction Act 2003* amended
- 156. *Salaries and Allowances Act 1975* amended
- 157. *Statutory Corporations (Liability of Directors)  
Act 1996* amended
- 158. *The Western Australian Turf Club Act 1892*  
amended
- 159. *Western Australian Greyhound Racing Association  
Act 1981* amended
- 160. *Workers' Compensation and Injury Management  
Act 1981* amended

**Part 11 — Review of Act**

- 161. Review of Act

**Defined terms**

Western Australia

LEGISLATIVE ASSEMBLY

(As amended during consideration in detail)

**TAB (Disposal) Bill 2019**

**A Bill for**

**An Act —**

- **to provide for the disposal of the whole or part of any business carried on by, or all or any of the assets or liabilities owned by, Racing and Wagering Western Australia trading as TAB or TAB Touch; and**
- **to amend —**
  - **the *Betting Control Act 1954*; and**
  - **the *Casino (Burswood Island) Agreement Act 1985*; and**
  - **the *Gaming and Wagering Commission Act 1987*; and**
  - **the *Racing and Wagering Western Australia Act 2003*;****and**
- **to make consequential amendments to various other Acts; and**
- **to repeal the *Racing Bets Levy Act 2009*.**

The Parliament of Western Australia enacts as follows:

## **Part 1 — Preliminary matters**

### **1. Short title**

This is the *TAB (Disposal) Act 2019*.

### **2. Commencement**

(1) This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent (*assent day*);
- (b) the following provisions — on a day fixed by proclamation —
  - (i) section 40(2), (3), (5), (6), (8), (10) to (13), (15) and (16);
  - (ii) section 41;
  - (iii) sections 43 to 45;
  - (iv) sections 49 to 51
  - (v) sections 53 to 76;
  - (vi) section 77(2);
  - (vii) sections 78 and 79
  - (viii) sections 86 to 88;
  - (ix) section 89(1);
  - (x) sections 90 to 92;
  - (xi) sections 94 to 104;
  - (xii) Part 9 Divisions 3 and 4;
  - (xiii) Part 10;
- (c) the rest of the Act — on the day after assent day.

(2) Different days may be fixed in a proclamation for different provisions.

### 3. Terms used

In Parts 1 to 5, unless the contrary intention appears —

**acquirer** means the entity to which a TAB asset is disposed of for the purposes of a section 8 disposal;

**asset** —

- (a) means property of any kind whether tangible, intangible, real or personal; and
- (b) includes —
  - (i) any chose in action, goodwill, right, interest or claim of any kind, whether arising from, accruing under, created or evidenced by or the subject of an instrument or otherwise and whether liquidated or unliquidated or actual, contingent or prospective; and
  - (ii) a contractual right that is to be regarded as arising because of section 19(2);

**company** means a company registered under the *Corporations Act 2001* (Commonwealth);

**corporate vehicle** means —

- (a) a company created in accordance with section 9(4) each security in which is held by a person specified in section 9(6) on behalf of the State; or
- (b) a subsidiary under the *Corporations Act 2001* (Commonwealth) of a company referred to in paragraph (a);

**dispose of**, in relation to a TAB asset, includes —

- (a) to sell the TAB asset; and
- (b) to grant a lease or licence in respect of the TAB asset; and
- (c) to create and assign an interest in the TAB asset;

**disposer** means the entity from which a TAB asset is disposed of for the purposes of a section 8 disposal;

***liability*** —

- (a) means any liability, duty or obligation —
  - (i) whether liquidated or unliquidated or actual, contingent or prospective; and
  - (ii) whether owed alone or jointly or jointly and severally with any other person;
- and
- (b) includes a contractual liability that is to be regarded as arising because of section 19(2);

***purposes***, of a section 8 disposal, has the meaning given in section 4;

***right*** —

- (a) means any right, power, privilege or immunity whether actual, contingent or prospective; but
- (b) in relation to a transfer order, does not include any privilege or immunity enjoyed as an agent of the Crown except in so far as it relates to anything done or omitted to be done before the transfer time;

***RWWA*** means —

- (a) before the commencement of section 120, Racing and Wagering Western Australia established under the *Racing and Wagering Western Australia Act 2003*;
- (b) on and after the commencement of section 120, Racing Western Australia established under the *Racing Western Australia Act 2003*;

***RWWA Act*** means —

- (a) before the commencement of section 120, the *Racing and Wagering Western Australia Act 2003*;
- (b) on and after the commencement of section 120, the *Racing Western Australia Act 2003*;

***section 8 disposal*** means a disposal for which an order is in force under section 8;

**TAB** means that part of RWWA trading as TAB or TAB Touch;

**TAB asset** means any of the following to the extent that it relates to or comprises the TAB or is owned by RWWA or a corporate vehicle and is, in the Minister's opinion, associated with the TAB —

- (a) the whole or any part of a business carried on by, or any asset or liability owned by or managed by, RWWA; or
- (b) the whole or any part of a business carried on by, or any asset or liability owned by or managed on behalf of RWWA, a corporate vehicle or the State by, a corporate vehicle; or
- (c) the securities in a corporate vehicle;

**transferee**, in relation to a transfer order, has the meaning given in section 16(2)(b);

**transferor**, in relation to a transfer order, has the meaning given in section 16(2)(b);

**transfer order** means a transfer order made under section 16 as amended under that section or corrected under section 22;

**transfer time**, in relation to a transfer order, means the time specified under section 16(2)(a) in the transfer order.

#### **4. Purposes of section 8 disposal**

The purposes of a section 8 disposal include the following —

- (a) the purpose of effecting or facilitating the section 8 disposal;
- (b) any purpose ancillary or incidental to, or consequential on, the section 8 disposal.

#### **5. Severance of things on land**

- (1) In this section —  
**on land** includes in, over or under land.
- (2) The Minister may, by order in writing for the purposes of a section 8 disposal, direct that a specified thing that is on land

and is capable of being disposed of is not part of the land, regardless of whether it is in the nature of a fixture.

- (3) The effect of the order is that, for the purposes of a section 8 disposal, the thing —
  - (a) is taken to be severed from the land; and
  - (b) is capable of being assigned as personal property separately from the land; and
  - (c) is capable of being removed from the land by, or with the authority of, the owner of the land.
- (4) The severance of a thing from land under this section does not affect the right of the thing to be situated on that land.
- (5) The Minister may vary or revoke an order made under subsection (2).

**6. Act binds Crown**

This Act binds the Crown in right of Western Australia and, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.



## Part 2 — Enabling disposal

### 7. Disposal of TAB assets authorised

- (1) A TAB asset owned or managed by RWWA may be disposed of, whether by RWWA or the State, if the disposal is authorised by an order made under section 8.
- (2) A TAB asset owned or managed by a corporate vehicle may be disposed of, whether by the corporate vehicle or the State, if the disposal is authorised by an order made under section 8.

### 8. Minister may order disposal of TAB assets

- (1) The Minister may, by order published in the *Gazette* —
  - (a) direct the disposal of all or specified TAB assets; or
  - (b) vary or revoke an order made under paragraph (a), or under this paragraph, at any time before effect is given to the order.
- (2) An order made under subsection (1) may be in general terms and need not include any details about how the disposal is to be effected or specific details about the assets the subject of the disposal.
- (3) The Minister cannot make an order under subsection (1) without the Treasurer's approval.
- (4) An order made under subsection (1) takes effect —
  - (a) on the day after the day on which the order is published in the *Gazette*; or
  - (b) if a later day is specified in the order — on that day.
- (5) Any TAB asset not disposed of in accordance with an order made under subsection (1) —
  - (a) remains the property of RWWA; and

- (b) despite the RWWA Act section 30, may be held, maintained, managed, improved, developed and disposed of for any purpose.

**9. Effecting disposal**

- (1) Except as provided in section 10, there are no limitations on the nature of any transaction or arrangement that can be entered into for the purposes of a section 8 disposal.
- (2) An express provision of this Act authorising the establishment of a particular kind of legal entity for the purposes of a section 8 disposal does not limit the kinds of legal entity that can be used for those purposes.
- (3) One or more corporate vehicles or 1 or more trusts can be used for the purposes of a section 8 disposal.
- (4) If a company is to be used for the purposes of a section 8 disposal by the State, the Under Treasurer must ensure that the necessary steps are taken on behalf of the State to create the company.
- (5) Any of the persons specified in subsection (6) can —
  - (a) receive on behalf of the State an allotment and issue of, or otherwise acquire on behalf of the State, securities in the company; and
  - (b) hold, and dispose of, on behalf of the State any securities so acquired by the person in the company.
- (6) For the purposes of subsection (5), the following persons are specified —
  - (a) the Minister;
  - (b) the Treasurer;
  - (c) RWWA.
- (7) The Minister may enter into on behalf of the State any agreement for the purposes of a section 8 disposal.

**10. Disposal of freehold land**

Freehold land can be disposed of under this Act only if it is owned by RWWA, a corporate vehicle or the State.

**11. Functions and powers of Minister**

The Minister has all of the functions and powers that are necessary or convenient for the purposes of this Act, including the power to acquire land.

**12. Functions and powers of RWWA**

RWWA has all of the functions and powers that are necessary or convenient for the purposes of the disposal of a TAB asset under this Act.

**13. Functions and powers of corporate vehicles**

A corporate vehicle has all of the functions and powers that are necessary or convenient for the purposes of the disposal of a TAB asset under this Act, including —

- (a) the power to acquire land; and
- (b) if the corporate vehicle is a company referred to in section 3 in the definition of *corporate vehicle* paragraph (a) — the power to create subsidiaries of the company.

**14. Directions by Minister**

- (1) The Minister may, for the purposes of a section 8 disposal, give a written direction to RWWA or a corporate vehicle.
- (2) RWWA or a corporate vehicle must comply with a direction given to it under subsection (1).
- (3) RWWA or a corporate vehicle, or a director or officer of RWWA or a corporate vehicle, is not liable for, and does not contravene the RWWA Act by reason of, anything done or omitted to be done in good faith in compliance with, or

purported compliance with, a direction given under subsection (1).

- (4) This section is declared to be a Corporations legislation displacement provision for the purposes of the *Corporations Act 2001* (Commonwealth) section 5G in relation to the Corporations legislation generally.

**15. Regulations about corporate vehicles and trusts**

- (1) Regulations may make provision about the constitution, trust deed or another constituent document of a corporate vehicle or trust that is to be used for the purposes of a section 8 disposal.
- (2) Regulations may declare a matter dealt with, provided for, done or occurring under regulations referred to in subsection (1) to be an excluded matter for the purposes of the *Corporations Act 2001* (Commonwealth) section 5F in relation to any of the following —
  - (a) the whole of the Corporations legislation;
  - (b) a specified provision of that legislation;
  - (c) that legislation other than a specified provision;
  - (d) that legislation other than to a specified extent.

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## Part 3 — Implementing disposal

### Division 1 — Transfer orders

#### 16. Minister may make transfer orders

- (1) In this section —

**private entity** means a person other than any of the following —

- (a) RWWA;
- (b) a statutory corporation;
- (c) a corporate vehicle;
- (d) the State;

**statutory corporation** means —

- (a) a Minister or chief executive officer who is constituted, or continued in existence, as a body corporate under an Act; or
- (b) any other body corporate that is constituted, or continued in existence, under an Act.

- (2) For the purposes of a section 8 disposal, the Minister may, by order published in the *Gazette* (a **transfer order**), specify all or any of the following —

- (a) a time (which must be after the day on which the order is published in the *Gazette*) that is the transfer time under the transfer order;
- (b) any asset or liability that, by operation of section 17, is to be transferred from RWWA, a corporate vehicle or the State as specified in the order (the **transferor**) to a corporate vehicle or a private entity as specified in the order (the **transferee**);
- (c) proceedings in which, by operation of section 17, the transferee is to be substituted for the transferor as a party;

- (d) any agreement or instrument relating to anything transferred that, by operation of section 17, is to have effect as if, unless otherwise expressly specified in the order, references to the transferee were substituted for references to the transferor in the agreement or instrument.
- (3) If the transfer time is specified by reference to when a thing is done, the Minister must ensure that notice of the time when the thing is done is published in the *Gazette*.
- (4) A transfer order may specify persons or things by reference to schedules that —
  - (a) need not be published in the *Gazette*; but
  - (b) must be available for public inspection on business days at the place and between the times specified in the transfer order for 6 months after the day on which the transfer order is published in the *Gazette*.
- (5) For the purposes of subsection (4)(b), a **business day** is a day other than a Saturday, Sunday or public holiday.
- (6) A person or thing specified in a schedule for a transfer order is taken to be specified in the transfer order.
- (7) A person or thing may be specified in a transfer order by describing the person or thing as a member of a class.
- (8) Before a transfer order is made specifying anything by reference to a schedule, the Minister must consult each relevant official to whom a copy of the schedule must be given under section 21(2) about the form and content of the schedule for the purpose of facilitating the recording and registration of instruments or documents as required by section 21(3)(b).
- (9) The Minister may, by order published in the *Gazette*, amend a transfer order or a schedule for a transfer order, but only —
  - (a) before the transfer time; and
  - (b) with the consent of the transferee.

**17. Consequences of transfer orders**

- (1) In this section —  
*specified* means specified in the transfer order.
- (2) A transfer order has effect at the transfer time as follows —
  - (a) a specified asset is, by operation of this section and without the need for any conveyance, transfer, assignment or assurance or any prior notice or further act, transferred to the transferee and becomes an asset of the transferee;
  - (b) a specified liability is, by operation of this section and without the need for any prior notice or further act, transferred to and becomes a liability of the transferee;
  - (c) the transferee is, by operation of this section, substituted for the transferor as a party to any specified proceedings;
  - (d) a specified agreement or instrument has effect, by operation of this section, as if (unless otherwise specified) a reference to the transferee were substituted for a reference to the transferor in the agreement or instrument;
  - (e) any proceedings or remedy that might have been commenced by, or available against or to, the transferor in relation to an asset or liability transferred by paragraph (a) or (b) may be commenced by, or are available against or to, the transferee;
  - (f) anything relating to an asset or liability transferred by paragraph (a) or (b) that was done or omitted to be done by, to or in respect of the transferor before the transfer and is of any effect is taken to have been done or omitted by, to or in respect of the transferee.

**18. Completion of transactions for this Division**

If a transfer order cannot to any extent have the effect sought to be achieved by this Division (whether because a matter is

governed otherwise than by a law of this State or for any other reason), the Minister and the transferor must each take all practicable steps to achieve that effect as soon as possible after the transfer time.

**19. Effect of arrangements internal to transferors**

- (1) An instrument that provides for arrangements between different parts of the transferor's business or undertaking may be specified in a transfer order as if it created contractual rights and liabilities.
- (2) An instrument specified as described in subsection (1) is to be regarded as if its provisions were contractual provisions between different legal entities.
- (3) A contractual right or liability that is to be regarded as arising because of subsection (2) is transferable under this Division.

**20. Delivery and access to records**

- (1) In this section —  
*record* includes a register, minute, receipt, book of account or other document (however compiled, recorded or stored);  
*relevant record*, in relation to a transfer order, means a record relating to any asset, liability, agreement, instrument or proceeding specified under section 16(2) in the transfer order.
- (2) The Minister may give the transferor under a transfer order a direction (whether in the transfer order or otherwise in writing) as to which relevant records, or classes of relevant records, in the possession or control of the transferor must be delivered to or shared with, or be able to be accessed by, the transferee under the transfer order.
- (3) The transferor must deliver to or share with the transferee, or enable the transferee to have access to, relevant records in accordance with the direction.



- (4) The transferor and transferee must make arrangements for the delivery or sharing of, or access to, relevant records in accordance with the direction.
- (5) This section is declared to be a Corporations legislation displacement provision for the purposes of the *Corporations Act 2001* (Commonwealth) section 5G in relation to the Corporations legislation generally.

## **21. Registration of documents**

- (1) In this section —  
*relevant official* means any of the following —
  - (a) the Registrar of Titles under the *Transfer of Land Act 1893*;
  - (b) the Registrar of Deeds and Transfers under the *Registration of Deeds Act 1856*;
  - (c) the Minister administering the *Land Administration Act 1997*;
  - (d) another person authorised by a written law to record and give effect to the registration of instruments or documents relating to transactions affecting any estate or interest in land or any other property.
- (2) The Minister must ensure that a copy of each of the following instruments is given to each relevant official —
  - (a) a transfer order and any schedule for it;
  - (b) any order made under section 16(9) amending a transfer order or any schedule for it;
  - (c) any order made under section 22(1) correcting a transfer order or any schedule for it;
  - (d) any notice published under section 16(3) in respect of the transfer time in relation to a transfer order.

- (3) A relevant official must —
  - (a) take notice of this Division, a transfer order and any other instrument relating to a transfer order that is referred to in subsection (2); and
  - (b) record and register in the appropriate manner the instruments or documents necessary to show the effect of this Division and a transfer order.

**22. Correction of errors in transfer orders**

- (1) The Minister may, by order published in the *Gazette*, make any provision that is necessary to correct any error in a transfer order or a schedule for a transfer order.
- (2) An order made under subsection (1) may be expressed to take effect on and after the transfer time.
- (3) To the extent that a provision of an order made under subsection (1) takes effect before the order is published in the *Gazette*, section 17 does not, as a result of that provision, operate so as —
  - (a) to affect in a manner prejudicial to any person (other than the State, the transferor or transferee, or a Minister, officer or agency of the State) the rights of that person existing before publication; or
  - (b) to impose liabilities on any person (other than the State, the transferor or transferee, or a Minister, officer or agency of the State) in respect of anything done or omitted to be done before publication.

**Division 2 — Disclosure of information**

**23. Authorised disclosure of information**

- (1) A disclosure of information that is authorised under this section is not to be regarded as —
  - (a) a breach of contract or confidence or any other civil wrong; or

- (b) a breach of duty under any of the following —
    - (i) the *Gaming and Wagering Commission Act 1987*;
    - (ii) the RWWA Act;
    - (iii) the *Statutory Corporations (Liability of Directors) Act 1996* section 5;
 or
  - (c) a breach of, or an offence under, a provision of a written law that prohibits or restricts the disclosure of information.
- (2) For subsection (1), a disclosure of information is authorised if it is made for the purposes of a section 8 disposal by —
    - (a) the State, RWWA or a corporate vehicle; or
    - (b) a person acting with the authority of a body referred to in paragraph (a).
  - (3) For subsection (2), a disclosure of information made for the purposes of a section 8 disposal includes a disclosure of information whenever made if the disclosure is or was made for the purposes of a potential section 8 disposal.

#### **24. Auditor General may disclose information**

Despite the *Auditor General Act 2006* section 46(2), the Auditor General may, for the purposes of a section 8 disposal, disclose to any person, or provide any person with access to, information in the possession or under the control of the Auditor General.

#### **25. Offence of disclosing information**

- (1) Subsection (2) applies to a person (a *bound recipient*) who —
  - (a) obtains information connected with a section 8 disposal, whether through a disclosure authorised by section 23 or otherwise; and
  - (b) has agreed or is otherwise under a duty not to disclose the information to others.

- (2) A bound recipient commits an offence if the bound recipient breaches the agreement or duty referred to in subsection (1)(b).  
Penalty for this subsection: a fine of \$200 000.
- (3) A person who obtains information connected with a section 8 disposal from or through a bound recipient commits an offence if, without lawful excuse, the person discloses the information in a way that would have resulted in a breach of the agreement or duty referred to in subsection (1)(b) if the disclosure had been made by the bound recipient.  
Penalty for this subsection: a fine of \$200 000.
- (4) For the purposes of subsections (1)(a) and (3), information connected with a section 8 disposal includes information whenever obtained if the information is or was connected with a potential section 8 disposal.

### **Division 3 — Other matters**

#### **26. Application of proceeds of disposal**

- (1) In this section —  
*net proceeds*, of a section 8 disposal, means the gross proceeds of the disposal less any transaction and implementation costs incurred by the State, as determined by the Treasurer.
- (2) The gross proceeds of a section 8 disposal must be paid into the Public Bank Account and credited to an account established by the Treasurer as a Treasurer's special purpose account under the *Financial Management Act 2006* section 10.
- (3) An amount equal to 35% of the net proceeds of a section 8 disposal must be charged to the Treasurer's special purpose account and credited to the Racing Infrastructure Fund referred to in section 27(1).
- (4) Any other moneys standing to the credit of the Treasurer's special purpose account may be applied as the Treasurer directs.

**27. Racing Infrastructure Fund**

- (1) An account called the Racing Infrastructure Fund must be maintained under the RWWA Act section 88.
- (2) The Racing Infrastructure Fund must be administered by RWWA.
- (3) Moneys standing to the credit of the Racing Infrastructure Fund may, with the approval of the Minister, be applied for providing and improving infrastructure for the State's racing industry.

**28. Provision by State of indemnities and guarantees**

- (1) The Treasurer may, in the name and on behalf of the State, give an indemnity or guarantee in respect of a matter related to —
  - (a) a section 8 disposal; or
  - (b) the action (whether under a transfer order or otherwise) by which anything is disposed of in connection with a section 8 disposal.
- (2) The Treasurer may, in the name and on behalf of the State, give to any person who is or has been a member, director or officer of RWWA or a corporate vehicle an indemnity against any liability determined by the Treasurer (including any civil liability under the *Corporations Act 2001* (Commonwealth)), whether or not the liability relates to a matter referred to in subsection (1).
- (3) Any money payable under an indemnity or guarantee given under this section must be paid by the Treasurer.
- (4) Payments made under subsection (3) are charged to the Consolidated Account, which this section appropriates accordingly.

**29. Takeover by State of certain obligations**

- (1) This section applies in relation to an obligation (whether contingent or otherwise) of RWWA or a corporate vehicle.

- (2) The Treasurer may, in the name and on behalf of the State, agree to take over an obligation in connection with a section 8 disposal.
- (3) If the performance of the obligation was guaranteed by the State, the agreement may also provide for —
  - (a) the release by the State of any security held by the State in connection with the guarantee; or
  - (b) the release of a person from an undertaking that the person gave to the State in relation to any security described in paragraph (a).
- (4) The Treasurer may authorise the payment of money to discharge an obligation that the State has taken over under subsection (2), whether by terminating the obligation or otherwise.
- (5) Payments authorised under subsection (4) are charged to the Consolidated Account, which this section appropriates accordingly.

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## Part 4 — Provisions relating to corporate vehicles

### 30. Application of this Part

This Part applies if, for the purposes of a section 8 disposal, a TAB asset is disposed of (whether under a transfer order or otherwise) from RWWA or a corporate vehicle (the *disposer*) to a corporate vehicle (the *acquirer*).

### 31. Acquirer's powers and duties

To the extent prescribed by the regulations, the acquirer has the powers, duties, rights and obligations in respect of the TAB asset that the disposer would have had if the disposal had not occurred.

### 32. Application of written laws to acquirer

- (1) In this section —

*applicable written law* —

- (a) means a written law (other than this Act) that applies to or in relation to, or refers to, the disposer; and
  - (b) includes a written law that, by operation of this section, applies to or in relation to, or refers to, the disposer.
- (2) An applicable written law is taken to apply to or in relation to, or to refer to, the acquirer —
- (a) to the extent prescribed by the regulations; and
  - (b) with the changes that are prescribed by the regulations or are otherwise necessary or convenient for the purposes of this Part.
- (3) Without limiting subsection (2), the regulations may provide that a reference in an applicable written law to the disposer that relates to the TAB asset before the disposal occurred is taken to include a reference to the acquirer.

## Part 5 — Miscellaneous matters

### 33. Exemption from State tax

- (1) In this section —  
*State tax* includes —
  - (a) duty chargeable under the *Duties Act 2008*; and
  - (b) any other tax, duty, fee, levy or charge under a law of the State.
- (2) State tax is not payable in relation to —
  - (a) anything that occurs by operation of either or both of Parts 2 and 3; or
  - (b) anything done (including a transaction entered into or an instrument or document of any kind made, executed, lodged or given) under, to give effect to, or for a purpose connected with or arising out of giving effect to, either or both of Parts 2 and 3.
- (3) The Minister may, at the request of the transferor or transferee under a transfer order, certify in writing that —
  - (a) a specified thing occurred by operation of either or both of Parts 2 and 3; or
  - (b) a specified thing was done under, to give effect to, or for a purpose connected with or arising out of giving effect to, either or both of Parts 2 and 3.
- (4) For all purposes and in all proceedings, a certificate under subsection (3) is sufficient evidence of the matters it certifies unless the contrary is shown.
- (5) The exemption under subsection (2) does not apply in relation to a thing that occurs or is done if the Minister directs (whether in a transfer order or otherwise in writing) that it does not apply in relation to the thing.



**34. Effect of this Act on existing rights and obligations**

The operation of this Act, including anything done or omitted to be done under or for the purposes of this Act, is not to be regarded as —

- (a) being a breach of confidence or any other civil wrong; or
- (b) being a breach of a contract or instrument, including (without limitation) a provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities; or
- (c) requiring any act to be done under a contract or instrument; or
- (d) giving rise to a right or remedy of a party to a contract or instrument or causing or permitting the termination of, or exercise of rights under, a contract or instrument; or
- (e) an event of default under a contract or instrument; or
- (f) causing a contract or instrument to be void or otherwise unenforceable; or
- (g) except as provided in section 29(3) and (4), releasing, or allowing the release of, a surety or other obligee from the whole or part of an obligation.

**35. No compensation payable**

- (1) No compensation is payable by or on behalf of the State —
  - (a) because of the enactment or operation of this Act or for the consequences of its enactment or operation; or
  - (b) because of any statement or conduct relating to the enactment of this Act; or
  - (c) in connection with the disposal under this Act of a TAB asset.

- (2) Subsection (1) does not apply in relation to —
  - (a) any consideration payable under an agreement entered into for the purposes of a section 8 disposal; or
  - (b) any compensation payable in connection with the performance of an obligation arising under an agreement entered into for the purposes of a section 8 disposal.

**36. Regulations for the purposes of, or consequential on, section 8 disposals**

- (1) In this section —
  - publication day**, for regulations referred to in subsection (2), means the day on which those regulations are published in the *Gazette*;
  - the State** includes a Minister, officer or agency of the State.
- (2) Regulations made under section 37 may provide for —
  - (a) matters for which it is necessary or convenient to make provision for the purposes of a section 8 disposal; or
  - (b) matters that it is necessary or convenient to deal with as a consequence of anything contained in, or anything done under, Part 2, 3 or 4.
- (3) Regulations referred to in subsection (2) may be expressed to take effect before publication day for those regulations but after the day on which the order made under section 8(1)(a) for the section 8 disposal is published in the *Gazette*.
- (4) To the extent that regulations referred to in subsection (2) take effect before publication day for those regulations, the regulations do not operate —
  - (a) to affect in a manner prejudicial to any person (other than the State or the disposer or acquirer under the section 8 disposal) the rights of that person existing before publication day for those regulations; or
  - (b) to impose liabilities on any person (other than the State or the disposer or acquirer under the section 8 disposal)

in respect of anything done or omitted to be done before publication day for those regulations.

**37. Regulations**

The Governor may make regulations prescribing matters —

- (a) required or permitted to be prescribed by this Act; or
- (b) necessary or convenient to be prescribed for giving effect to this Act.

## **Part 6 — *Betting Control Act 1954* amended**

**38. Act amended**

This Part amends the *Betting Control Act 1954*.

**39. Long title replaced**

Delete the long title and insert:

**An Act —**

- to authorise, regulate and control the use of totalisators and betting with a wagering licensee; and
- to authorise, regulate and control, betting and bookmaking on races, events and contingencies relating to races and events; and
- for related purposes.

**40. Section 4 amended**

- (1) In section 4(1) delete the definitions of:

*employee*

*fixed odds bet*

*race course*

- (2) In section 4(1) delete the definitions of:

*bookmaker*

*contingency*

*event*

*prohibited event or contingency*

*RWWA*

*RWWA Act*

*ticket*

*totalisator* and *totalisator ticket*

*totalisator agency*

- (3) In section 4(1) delete the definitions of:

***approval***

***authorisation***

***domestic betting operator***

- (4) In section 4(1) insert in alphabetical order:

***arrangement*** includes a contract, agreement and understanding;

***associate***, of a wagering licensee, has the meaning given in section 7(2);

***betting agency*** means an agency established by a wagering licensee under section 10U;

***consumer protection policy*** has the meaning given in section 10I;

***employee***, in relation to a bookmaker, means a person employed by a bookmaker as the agent or substitute of that bookmaker or otherwise for the purpose of the carrying on of the business of the bookmaker, whether or not that person receives remuneration in any form from the bookmaker;

***fixed odds bet*** means a bet where a fixed amount that will be won if the bet is successful is determined before the bet is accepted;

***good repute***, in relation to an associate of a wagering licensee, means good repute of the associate as determined under section 9(1);

***key employee***, of a wagering licensee, has the meaning given in section 8(1);

***position of authority***, occupied in a body corporate, has the meaning given in subsection (3);

***prescribed*** means prescribed in regulations;

**public interest**, in relation to a wagering licence, has a meaning affected by section 9(2);

**racecourse** means a racecourse used for races;

**racing industry arrangement** has the meaning given in section 10H(1);

**simulated race** means a game —

- (a) that consists of animated images of a thoroughbred race, harness race or greyhound race; and
- (b) the outcome of which is only determined by a random number generator that draws a set of numbers from a larger set of numbers;

**wagering business** means the business of a wagering licensee conducted under a wagering licence;

**wagering licence** has the meaning given in section 6(1);

**wagering licence agreement** has the meaning given in section 10Q(1);

**wagering licensee** has the meaning given in section 6(1);

- (5) In section 4(1) insert in alphabetical order:

**bookmaker** has the meaning given in section 4AB;

**event** does not include a race or simulated race;

**prohibited**, in relation to a race, event or contingency, has the meaning given in section 4AC;

**rules of betting** means rules approved by the Commission under section 4C(1);

**RWA** means Racing Western Australia established under the RWA Act;

**RWA Act** means the *Racing Western Australia Act 2003*;

**sporting event** —

- (a) means an event of a sporting nature; and
- (b) includes a foot-race;

**ticket** —

- (a) means a betting ticket or a totalisator ticket; and
- (b) includes a ticket produced or issued by a machine used to facilitate betting;

**totalisator** —

- (a) means a scheme of pari-mutuel betting under which persons place money on specified outcomes of races, events or simulated races, and the money left after the deduction of commission is divided and distributed among those persons who successfully predicted those outcomes; and
- (b) includes any machine through or by which the scheme is operated;

**totalisator ticket** includes any ticket, card, token or thing —

- (a) entitling, or purporting to entitle, any person to any interest in any division or distribution of any money by means of or in connection with or as the result of the operations of a totalisator; or
- (b) issued by a wagering licensee acknowledging that a bet has been made with the wagering licensee;

**writing** includes a ticket, form or other record produced by a machine.

- (6) In section 4(1) insert in alphabetical order:

***publication and use approval*** has the meaning given in section 25A;

***wagering service provider*** means —

- (a) a wagering licensee; or
  - (b) a person who in this State or elsewhere does any of the following —
    - (i) carries on the business or vocation of, or acts as, a bookmaker;
    - (ii) conducts betting by the operation of a totalisator;
    - (iii) operates a betting exchange (however described);
    - (iv) gains, or endeavours to gain, a livelihood wholly or partly by making bets;
- (7) In section 4(1) in the definition of ***betting exchange*** delete “to that term”.
- (8) In section 4(1) in the definition of ***betting material*** paragraph (a) delete “race or other event” and insert:

race, event or simulated race

- (9) In section 4(1) in the definition of ***consideration*** delete “interpretation,” and insert:

definition of



(10) In section 4(1) in the definition of *designated sporting event* delete “(excluding races but including foot-races)”.

(11) In section 4(1) in the definition of *offshore betting operator* delete “on events;” and insert:

on races or events;

(12) In section 4(1) in the definition of *steward* delete “RWWA” and insert:

RWA

(13) In section 4(1) in the definition of *to bet*:

(a) in paragraph (a) delete “any event or contingency of or relating to any event” and insert:

a race, event, simulated race or contingency

(b) in paragraph (b) delete “event or contingency;” and insert:

race, event, simulated race or contingency;

(14) In section 4(1) in the definition of *WA race field* paragraph (b) delete “State.” and insert:

State;

(15) In section 4(1a)(a) delete “(excluding races but including foot-races)”.

(16) Delete section 4(2).

- (17) In section 4(3) delete “position of authority” and insert:

*position of authority*

**41. Sections 4AB and 4AC inserted**

After section 4AA insert:

**4AB. Term used: bookmaker**

- (1) In this Act a reference to a ***bookmaker*** is a reference to a person who, whether on their own account or as a licensed manager, employee or agent of another person, holds a current bookmaker’s licence and —
- (a) carries on the business or vocation of, or acts as, a bookmaker; or
  - (b) gains, or endeavours to gain, a livelihood wholly or partly by betting or making wagers.
- (2) For the purposes of subsection (1), a reference to a ***bookmaker*** —
- (a) includes —
    - (i) a licensed employee acting as the agent of, or substitute for, a person referred to in subsection (1); and
    - (ii) a licensed manager acting under section 11D(5);but
  - (b) does not include a wagering licensee, or officer, employee or agent of a wagering licensee.

**4AC. Prohibited races, events and contingencies**

In this Act, betting on a race, event or contingency is *prohibited* if —

- (a) the race, event or contingency is prescribed as prohibited; or
- (b) the race, event or contingency is of a class that is prescribed as prohibited.

**42. Section 4A amended**

In section 4A(1) delete “applies to and” and insert:

applies to the conduct of betting by the holder of a bookmaker’s licence

**43. Section 4B replaced**

Delete section 4B and insert:

**4B. Betting on events**

- (1) Betting on an event is conducted in accordance with this Act if —
  - (a) the conduct of betting on the event is approved by the Commission under subsection (2); and
  - (b) the betting is conducted —
    - (i) by a body or person approved in relation to the event under subsection (2); and
    - (ii) in accordance with the rules of betting or the rules or arrangements referred to in section 10S(2).

- (2) The Commission may approve the conduct of betting on an event, except a prohibited event, by —
  - (a) a wagering licensee; or
  - (b) a bookmaker whose licence is endorsed to authorise the betting.
- (3) The approval must be published as soon as practicable in the *Gazette*, and may be made subject to conditions, or to requirements as to the recording of bets, specified in that approval.
- (4) The Commission has the same functions in relation to betting on events as it has in relation to races.

**4C. Rules of betting**

- (1) The Commission may approve rules for the conduct of betting on a race, event or simulated race.
- (2) The rules must specify contingencies relating to races, events or simulated races as contingencies on which betting may be conducted.
- (3) The Commission must, as soon as practicable after approving rules under this section, publish them on a website maintained by or on behalf of the Commission.

**44. Section 5 amended**

- (1) Delete section 5(1) and insert:
  - (1) Despite any law to the contrary, a person may, in accordance with this Act, lawfully bet on a race, event or simulated race and the bet —
    - (a) does not of itself constitute a contravention of the law; and

- (b) is not a ground for the place where the bet is made or any part of it —
  - (i) being taken or declared to be, or to be used as, a common betting house or a common gaming house; or
  - (ii) being taken or declared to be a common nuisance and contrary to the law.

- (2) In section 5(2) delete “The” and insert:

In the case of bets made with a bookmaker, the

**45. Section 5A replaced**

Delete section 5A and insert:

**5A. Communication and broadcasting of information**

Despite the provisions of any other Act, it is lawful —

- (a) to communicate information from a place at which a bet is made with a wagering licensee to a betting agency for or in connection with the payment or crediting of dividends or winnings to the persons making the bets; or
- (b) in relation to a totalisator, to broadcast information as to the amount of dividends payable for bets made with a wagering licensee, after those dividends have been declared on the totalisator or by the wagering licensee.

**5B. Conduct of bookmaking**

This Act authorises bookmaking only if it is conducted under section 12 —

- (a) at a racecourse; and
- (b) in accordance with a permit granted or endorsed for betting of that kind by the committee or other authority controlling the racecourse.

**46. Section 5C inserted**

At the end of Part 1 insert:

**5C. Betting on simulated races**

This Act authorises betting on a simulated race only if the betting is conducted by a wagering licensee in accordance with the licensee's wagering licence.

**47. Part 1A inserted**

Before Part 2 insert:

**Part 1A — Wagering licences**

**Division 1 — General**

**6. Wagering licence and wagering licensee**

- (1) A licence (a *wagering licence*) may be granted under this Act to a person (a *wagering licensee*) to conduct totalisator betting and fixed odds betting on a race, event or simulated race.

- 
- (2) Except as provided in subsection (3), this Part does not authorise the operation at the same time of more than 1 wagering licence.
  - (3) A wagering licence (a ***new licence***) may be granted while another wagering licence (an ***ending licence***) is in effect if —
    - (a) the new licence takes effect after the ending licence has ceased to have effect; and
    - (b) preparatory action is required in relation to the new licence under section 10D.

## 7. Associates

- (1) In this section —
 

***executive officer***, in relation to a body (whether incorporated or not), means —

  - (a) a director, secretary or member of the committee of management of the body (by whatever name called); or
  - (b) any other person who is concerned with, or takes part in, the management of the body, whether or not the person's position is given the name of executive officer;

***relative***, in relation to an individual, means —

- (a) the spouse or de facto partner of the individual; or
- (b) a parent, son, daughter, brother or sister of the individual; or
- (c) a parent, son, daughter, brother or sister of the spouse or de facto partner of the individual;

***relevant financial interest***, in relation to a wagering business, means —

- (a) any share, whether held directly or indirectly, in the capital of the business; or

- (b) any entitlement, whether held directly or indirectly, to receive any income derived from the business; or
- (c) any entitlement, whether held directly or indirectly, to receive any payment as a result of money advanced;

**relevant power** means any power, whether exercisable by voting or otherwise, whether exercisable alone or in association with others and whether held directly or indirectly —

- (a) to participate in any directorial, managerial, or executive decision; or
  - (b) to elect or appoint any person as an executive officer.
- (2) In this Part, an **associate** of a wagering licensee or an applicant for a wagering licence is a person, other than a key employee, who is any of the following —
- (a) a person who —
    - (i) holds or will hold any relevant financial interest, or is or will be entitled to exercise any relevant power (whether in right of the person or on behalf of any other person) in the wagering business of the licensee or applicant; and
    - (ii) by virtue of that interest or power, is able or will be able to exercise a significant influence over or with respect to the management or operation of that business;
  - (b) a person who is or will be an executive officer, whether in right of the person or on behalf of any other person, of —
    - (i) the licensee or applicant; or



- (ii) any other body involved in the wagering business of the licensee or applicant;
- (c) if the licensee or applicant is an individual, a person who is a relative of the licensee or applicant.

**8. Key employees**

- (1) In this Part, a **key employee** of a wagering licensee is a person who —
  - (a) is employed by, or working for the benefit of, the wagering licensee and is empowered to make decisions, involving the exercise of that person's discretion, that regulate the wagering business of the wagering licensee; or
  - (b) because of the person's influence, remuneration or function, the Commission determines in the public interest should be designated accordingly.
- (2) The regulations may —
  - (a) require key employees to be persons who are licensed, provisionally or otherwise, by the Commission; and
  - (b) make provision as to the licensing of key employees, and the conditions and fees applicable to the licensing; and
  - (c) make provision for the disciplinary action that the Commission may take in relation to a key employee including the following —
    - (i) the service of a letter of censure on the employee;
    - (ii) the imposition on the employee of a fine not exceeding \$1 000;
    - (iii) the cancellation or suspension of the licence held by the employee.

**9. Determinations of good repute and public interest**

- (1) In this Part, a determination of whether someone is, or is not, of **good repute** must be made having regard to the person's character, honesty and integrity.
- (2) In this Part, a determination whether something relating to a wagering licence is in the **public interest** must be made having regard to the need for the creation and maintenance of public confidence and trust in the credibility, integrity and stability of the wagering business under the licence.

**Division 2 — Applications for and grant of wagering licences**

**10. Application for wagering licence**

- (1) The Minister may, in a manner determined by the Minister, invite persons to apply for the grant of a wagering licence.
- (2) An application for a wagering licence must be —
  - (a) made in a form approved by the Minister; and
  - (b) accompanied by such information and documents as the Minister requires.

**10A. Grant of wagering licence**

- (1) The Minister may grant a wagering licence on an application under section 10 if the Minister determines that the granting of the licence is in the public interest.
- (2) In particular, the Minister must consider the following —
  - (a) whether the applicant, and each associate of the applicant, is of good repute;
  - (b) whether the applicant has financial capacity to conduct a wagering business;

- (c) whether the applicant has the operational capability to conduct the activities to be authorised by the wagering licence;
  - (d) whether the applicant has entered into a wagering licence agreement;
  - (e) whether the applicant has entered into a racing industry arrangement;
  - (f) any consumer protection policy proposed by the applicant;
  - (g) any other matter the Minister considers relevant.
- (3) The Minister may request the advice of the Commission in determining the application.

**10B. Fee for wagering licence**

- (1) A wagering licensee must pay a fee for the wagering licence in accordance with the terms of the licence.
- (2) The wagering licence may specify the fee as 1 or more amounts payable —
  - (a) on the grant of the licence or at a later time or times specified in the licence; or
  - (b) each year for the duration of the licence, at a time or times specified in the licence.
- (3) An amount referred to in subsection (2) may be —
  - (a) a monetary figure specified in the wagering licence; or
  - (b) the outcome from the application of a formula specified in the licence for calculating the amount.
- (4) The fee may include 1 or more penalties for late payment.

- (5) The fee (comprising 1 or more amounts referred to in subsection (2) and any penalties referred to in subsection (4)) may be recovered as a debt due to the State in a court of competent jurisdiction.

**10C. Duration of wagering licence**

- (1) A wagering licence —
  - (a) takes effect at the time the licence is granted or at a later time specified in the licence; and
  - (b) is valid for 40 years, or any lesser period stated in the wagering licence, unless —
    - (i) cancelled or surrendered earlier in accordance with this Part; or
    - (ii) extended under this section.
- (2) If invited by the Minister to do so, the wagering licensee may, before the wagering licence expires, apply to the Minister for a licence extension.
- (3) On application under subsection (2), the Minister may extend the wagering licence for a period determined by the Minister, after consulting —
  - (a) the Commission; and
  - (b) any other person the Minister considers appropriate.
- (4) A wagering licence may be extended under this section more than once, but the total cumulative period for which a wagering licence may be extended under this section cannot exceed 2 years from the day on which the licence would otherwise expire.
- (5) A wagering licence cannot be renewed, but a person who holds or has held a wagering licence may apply for a subsequent wagering licence if invited by the Minister to do so.

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**10D. Wagering licence may authorise preparatory action**

- (1) In this section —  
*preparatory action*, in relation to a wagering licence —
  - (a) means anything necessary or convenient to be done for the purpose of conducting any activities authorised by the licence; but
  - (b) does not include the acceptance of a bet or the payment of a dividend.
- (2) This section applies to a wagering licence if the licence takes effect at a time specified in the licence that is later than the time of grant of the licence.
- (3) The wagering licence may authorise the wagering licensee to take preparatory action from a time specified in the licence (which may be the time of grant) even though the licence has not taken effect.
- (4) An authorisation under subsection (3) may specify a single time from which any preparatory action may be taken or different times from which different kinds of preparatory action may be taken.
- (5) A time specified from which preparatory action may be taken must not be more than 18 months before the time the wagering licence takes effect.
- (6) Despite section 10C(1)(a), the wagering licence is taken to be in effect for the purpose of any preparatory action taken in accordance with an authorisation under subsection (3).
- (7) No account is to be had to this section in determining the term of the licence under section 10C(1)(b).

**10E. Transfer of wagering licence**

- (1) A wagering licensee that is a body corporate may, with the approval of the Minister, transfer the wagering

licence to a related body corporate as defined in the *Corporations Act 2001* (Commonwealth) section 9 (the ***new licensee***).

- (2) The wagering licensee may apply to the Minister to approve the transfer.
- (3) The application must be —
  - (a) made at least 60 days before the day of the intended transfer; and
  - (b) made in a form approved by the Minister; and
  - (c) accompanied by such information and documents as the Minister requires.
- (4) The Minister may approve the transfer if the Minister, after consulting the Commission, determines that the transfer is in the public interest.
- (5) Section 10A(2) applies to the Minister's approval of the transfer as if a reference in that provision to the applicant were a reference to the new licensee.
- (6) If the Minister approves the transfer —
  - (a) the Minister may make any necessary amendments to the wagering licence; and
  - (b) any costs incurred by the Minister may be recovered as a debt due to the State in a court of competent jurisdiction; and
  - (c) for the purposes of this Part, the new licensee is taken to have been granted the licence under section 10A.

**10F. No proprietary right in wagering licence**

- (1) A wagering licence does not confer a right of property and is incapable of being assigned or mortgaged, charged or otherwise encumbered.

- (2) In accordance with paragraph (d) of the definition of *licence* in the *Personal Property Securities Act 2009* (Commonwealth) section 10, a wagering licence is declared not to be personal property for the purposes of that Act.
- (3) Nothing in this section prevents a wagering licensee from conducting activities authorised by the wagering licence in the course of a joint venture or other arrangement to which the wagering licensee is a party.

### **Division 3 — Conditions of wagering licences**

#### **10G. Financial assurance**

- (1) It is a condition of a wagering licence that the wagering licensee must provide financial assurance of a kind, and within the time, specified in the licence.
- (2) The requirement to provide financial assurance continues to apply during any period of suspension and may, in accordance with the terms of the wagering licence, continue to apply after the licence has —
  - (a) expired; or
  - (b) been cancelled or surrendered.

#### **10H. Racing industry arrangement**

- (1) It is a condition of a wagering licence that the wagering licensee must have in place, and give effect to, an arrangement with RWA (a ***racing industry arrangement***) that makes provision for —
  - (a) the wagering licensee to provide funding to RWA; and
  - (b) the wagering licensee to perform other obligations in relation to the racing industry in the State; and
  - (c) any other related matters.

- (2) A copy of the documents comprising the racing industry arrangement must be provided to the Minister as soon as practicable after the arrangement has been entered into.

**10I. Consumer protection policy**

It is a condition of a wagering licence that the wagering licensee must have in place, and give effect to, a policy (a *consumer protection policy*) approved by the Commission for responsible gambling, harm minimisation and consumer protection.

**10J. General provisions relating to bets with wagering licensee**

- (1) A wagering licensee, officer, employee or agent of a wagering licensee, or employee of an agent of a wagering licensee, must not accept a bet unless a bet is made in accordance with this section —
  - (a) at a betting agency; or
  - (b) except in the case of a bet on a simulated race, by telephone or electronic communication directly to the wagering licensee.
- (2) A wagering licensee must not accept a bet involving the provision of credit by the wagering licensee.

**Division 4 — Disciplinary and other actions concerning wagering licences**

**10K. Commission may take or recommend disciplinary action**

- (1) In this section —  
*direction* —
  - (a) means a direction to a wagering licensee under this Part; and



- (b) includes a direction to a former wagering licensee under section 10P;

***disciplinary action*** means action under subsection (4) or (6);

***grounds***, for disciplinary action against a wagering licensee in relation to the licensee's wagering licence, means any of the following —

- (a) that the wagering licensee has contravened any of the following —
  - (i) a provision of this Act or the *Gaming and Wagering Commission Act 1987*;
  - (ii) the regulations;
  - (iii) rules of betting;
  - (iv) a condition of the wagering licence;
  - (v) a direction;
  - (vi) the rules or arrangements referred to in section 10S(2);
- (b) that the wagering licensee has failed to use reasonable endeavours to ensure that an officer, employee, agent or contractor of the wagering licensee does not contravene any of the following —
  - (i) a provision of this Act or the *Gaming and Wagering Commission Act 1987*;
  - (ii) the regulations;
  - (iii) rules of betting;
  - (iv) a condition of the wagering licence;
  - (v) a wagering licence agreement;
  - (vi) a direction;
  - (vii) the rules or arrangements referred to in section 10S(2);

- (c) that an associate of the wagering licensee, if an individual, has been convicted of an offence involving fraud or dishonesty the statutory penalty for which is imprisonment for more than 6 months or a fine of \$100 000 or more;
  - (d) that the wagering licensee has become an externally administered corporation within the meaning of the *Corporations Act 2001* (Commonwealth);
  - (e) that the wagering licensee is not, or is no longer, a suitable person or body to conduct the activities authorised by the wagering licence;
  - (f) that the wagering licensee has failed to discharge the licensee's financial obligations to a person betting with the licensee.
- (2) The Commission may give a wagering licensee a notice specifying the grounds on which the Commission considers disciplinary action should be taken in relation to the licensee's wagering licence.
- (3) The wagering licensee may, within 28 days after the notice is given, make submissions to the Commission as to why disciplinary action should not be taken.
- (4) After considering any submissions made under subsection (3), the Commission may —
  - (a) take either or both of the following actions —
    - (i) give a letter of censure to the wagering licensee;
    - (ii) require the wagering licensee to pay a monetary penalty of up to \$1 000 000;
  - or
  - (b) make a written report to the Minister recommending that the Minister take action under section 10L against the licensee.

- (5) A letter of censure under subsection (4)(a)(i) may —
  - (a) censure the wagering licensee in respect of any matter connected with the management or operation of its wagering business; and
  - (b) include a direction to the wagering licensee to rectify within a specified time any matter giving rise to the letter of censure.
- (6) If a direction given under subsection (5)(b) is not complied with in the specified time, the Commission may —
  - (a) require the wagering licensee to pay a monetary penalty of up to \$1 000 000; or
  - (b) make a written report to the Minister recommending that the Minister take action against the licensee under section 10L.
- (7) The Commission may require the wagering licensee to pay a monetary penalty under subsection (6)(a) whether or not the Commission has already required the licensee to pay a monetary penalty under subsection (4)(a)(ii) in relation to the same matter.
- (8) A monetary penalty imposed under this section may be recovered as a debt due to the State in a court of competent jurisdiction.
- (9) A report under subsection (4)(b) or (6)(b) must include the reasons for the findings and recommendations contained in it.
- (10) This section, other than subsection (4)(b) and (6)(b), applies with any necessary modifications to a former wagering licensee in respect of grounds for disciplinary action arising in relation to the licensee's former wagering licence.

**10L. Minister's power to amend, suspend or cancel wagering licence**

- (1) If the Commission makes a report to the Minister under section 10K(4)(b) or (6)(b), the Minister may —
  - (a) take 1 of the following actions —
    - (i) amend the wagering licence;
    - (ii) suspend the licence;
    - (iii) cancel the licence;
  - or
  - (b) if the Minister determines that action under paragraph (a) is not warranted, remit the matter to the Commission with a request that the Commission consider whether action should be taken against the wagering licensee under section 10K(4)(a).
- (2) In determining whether to take action under this section, the Minister —
  - (a) must take into account whether taking the action is in the public interest; and
  - (b) is entitled to rely on the findings and recommendations in the report of the Commission under section 10K (4)(b) or (6)(b); and
  - (c) is not required to give the wagering licensee a further opportunity to be heard or make submissions.
- (3) If the Minister remits a matter to the Commission under subsection (1)(b), the Commission is not required to give the wagering licensee a further opportunity to be heard or make submissions before taking action against the licensee under section 10K(4)(a).

- (4) Cancellation, suspension or amendment of a wagering licence under this section takes effect —
  - (a) when written notice is given to the wagering licensee; or
  - (b) on a later date specified in the notice.

**10M. Suspension of wagering licence**

- (1) The Minister may, by written notice, suspend a wagering licence under section 10L(1)(a)(ii) —
  - (a) until a date specified in the notice; or
  - (b) if the notice specifies it, until the Minister —
    - (i) is satisfied that a direction under section 10K(5)(b) has been complied with; and
    - (ii) notifies the wagering licensee in writing that the suspension has been lifted.
- (2) Alternatively, the Minister may partially suspend a wagering licence (for example, in respect of the conduct of a wagering service at a specified racecourse or venue for a specified race or event) until —
  - (a) a date, as referred to in subsection (1)(a); or
  - (b) the happening of an occurrence referred to in subsection (1)(b).

**10N. Surrender of wagering licence**

- (1) A wagering licensee may surrender the licensee's wagering licence by giving written notice to the Minister.
- (2) The surrender takes effect only if the Minister consents to the surrender.

**100. Appointment of temporary licensee if wagering licence suspended, cancelled, surrendered**

- (1) This section applies if —
  - (a) a wagering licence is suspended, cancelled or surrendered; and
  - (b) the Minister determines that —
    - (i) another person (a *temporary licensee*), and each associate of the temporary licensee, is of good repute; and
    - (ii) it is otherwise in the public interest to make the appointment.
- (2) The Minister may, by notice in writing, appoint the temporary licensee to be a wagering licensee.
- (3) The provisions of this Act, other than sections 10, 10A, 10C, 10K(4)(b) and (6)(b), 10L and 10M, apply, with the necessary modifications, to the temporary licensee as if the temporary licensee had been granted a wagering licence under section 10A.
- (4) The Minister may impose any conditions on the appointment as the Minister thinks fit.
- (5) The appointment ends when the first of these things occurs —
  - (a) the period of 2 years after the appointment, or any shorter period specified in the appointment, ends;
  - (b) in the case of a suspended wagering licence, the suspension ends;
  - (c) the Minister terminates the appointment under subsection (6).
- (6) The Minister may terminate the appointment at any time, as the Minister thinks fit.

**10P. Directions necessary for transitioning to new wagering licence**

- (1) The Minister may issue to a wagering licensee (a *former licensee*) any directions necessary to enable the Minister to —
  - (a) grant a wagering licence to another person under section 10A and provide for the transition to the other person of activities conducted under the wagering licence; or
  - (b) appoint a temporary licensee under section 10O and provide for the transition to the temporary licensee of activities conducted under the wagering licence.
- (2) The directions may be given at any time within 2 years before or 2 years after the cancellation, surrender or expiry, as the case requires, of the former licensee's wagering licence.

**Division 5 — Miscellaneous**

**10Q. Wagering licence agreements**

- (1) The Minister may enter into an agreement (a *wagering licence agreement*) with an applicant for a wagering licence, or the wagering licensee, in respect of matters related to the licence.
- (2) The wagering licence may provide that a contravention of a term of a wagering licence agreement is taken to be a contravention of a condition of the licence and, in that case, the contravention is taken to be a contravention of a condition of the licence for the purposes of determining under section 10K whether there are grounds for disciplinary action against the wagering licensee in relation to the licence.

**10R. Minister may amend wagering licence on request**

- (1) A wagering licensee may, by written request to the Minister, propose an amendment to the wagering licence.
- (2) The Minister must consult the Commission before deciding whether to grant or refuse the request.
- (3) The Minister must notify the wagering licensee in writing of the Minister's decision in relation to the request.
- (4) If the Minister decides to approve the requested amendment, the amendment takes effect —
  - (a) when notice of the Minister's decision is given to the wagering licensee; or
  - (b) on a later date specified in the notice.

**10S. Combined totalisator pool and fixed odds schemes**

- (1) A wagering licensee may operate and participate with other persons approved by the Commission in a combined totalisator pool scheme or combined fixed odds scheme (a *scheme*) approved by the Commission.
- (2) Despite any provision of the regulations or rules of betting, and except as provided in subsections (4) and (5), the wagering licensee may, when participating in a scheme —
  - (a) adopt and operate under any rules relating to the operation or administration of the scheme, including in relation to the amount deducted from a bet by way of commission under the scheme; or
  - (b) with the approval of the Commission, make other arrangements for the administration of the scheme.



- (3) The wagering licensee must ensure that a copy of any rules adopted, or arrangements made, under subsection (2), and any subsequent amendment to those rules or arrangements, is —
  - (a) delivered to the Commission; and
  - (b) published in a manner approved by the Commission.
- (4) If the Commission determines that the adoption of any rules under subsection (2)(a) or making of any arrangements under subsection (2)(b) is, or will be, detrimental to the public interest, the Commission may, as the case requires and in accordance with the regulations, direct the wagering licensee not to adopt the rules or make the arrangements.
- (5) The wagering licensee must comply with the direction.

**10T. Engaging contractors and appointing agents to assist wagering licensee**

- (1) A wagering licence may authorise the wagering licensee to engage a person on contract, or to appoint an agent, to assist in the conduct of the wagering business under the licence.
- (2) The engagement of a person, or the appointment of an agent, by the wagering licensee does not affect any function or obligation of the wagering licensee under this Part, the wagering licence or a wagering licence agreement.

**10U. Betting agencies**

- (1) Except as provided in this section and section 10V, a wagering licensee may establish agencies where bets may be made with the wagering licensee.

- (2) The wagering licensee must not establish a betting agency on a racecourse without the prior approval of the committee or other authority controlling the racecourse.
- (3) The wagering licensee may establish a betting agency in licensed premises in accordance with an approval under the *Liquor Control Act 1988* section 119A.
- (4) The wagering licensee must not establish a betting agency unless it has given the Commission written notice of its intention to establish the agency.
- (5) A notice must be given in a form approved by the Commission.
- (6) A totalisator agency operating immediately before the day on which the *TAB (Disposal) Act 2019* section 129 comes into operation is, on and after that day, taken to be a betting agency for the purposes of this Act and subsection (4) does not apply to that agency.

**10V. Directions relating to betting agencies**

- (1) If the Commission determines that the conduct of betting at a betting agency or a proposed betting agency is, or will be, detrimental to the public interest, the Commission may, as the case requires and in accordance with the regulations, direct the wagering licensee —
  - (a) to close the betting agency; or
  - (b) not to establish the betting agency.
- (2) The wagering licensee must comply with the direction.

**10W. Wagering licensee to give notice to Commission about certain matters**

- (1) A wagering licensee must give to the Commission written notice of the following —
  - (a) that the wagering licensee, or an associate or key employee of the wagering licensee, has been convicted of an offence under a written law other than this Act or the *Gaming and Wagering Commission Act 1987* or under the law of another State, a Territory or the Commonwealth;
  - (b) that disciplinary action has been taken against the wagering licensee, or an associate or key employee of the wagering licensee, by an equivalent regulator to the Commission in another State or a Territory;
  - (c) any other prescribed matter.
- (2) For the purposes of subsection (1), the wagering licensee must give the notice within 7 days of becoming aware of the conviction, disciplinary action or other matter.

**10X. Approval of associates of wagering licensee**

- (1) In this section —  
*associate* does not include a person referred to in section 7(2)(c).
- (2) A wagering licensee must ensure that a person does not —
  - (a) become an associate of the wagering licensee without the approval of the Commission; or
  - (b) remain an associate of the wagering licensee after the approval of the Commission in respect of the person has been withdrawn.

- (3) A wagering licensee does not contravene subsection (2)(a) if —
  - (a) the wagering licensee did not know, and could not reasonably have known, that the person would become an associate; and
  - (b) as soon as practicable after the person becomes an associate, the wagering licensee —
    - (i) notifies the Commission in writing of the association; and
    - (ii) describes the circumstances giving rise to the association; and
    - (iii) makes an application under subsection (4) in respect of the person.
- (4) The wagering licensee may apply to the Commission for the approval of a person to become or remain an associate of the wagering licensee.
- (5) The application —
  - (a) must be in the form approved by the Commission; and
  - (b) must be accompanied by the prescribed fee (if any).
- (6) In determining the application, the Commission must consider whether the person is of good financial standing and good repute.
- (7) Before determining the application, the Commission may give written notice to the person in respect of whom the application is made, directing the person to cease or refrain from conduct affecting the good repute of the person.
- (8) If the Commission refuses to approve an associate referred to in subsection (3), or withdraws an approval in respect of an associate, the Commission must give

written notice to the associate and the wagering licensee directing them to terminate their association.

- (9) Without limiting subsection (8), the notice may —
  - (a) direct the associate to dispose of a financial interest in the wagering business of the wagering licensee; or
  - (b) direct the wagering licensee to remove the associate from a position from which the associate is able to exercise power over the wagering business of the wagering licensee.
- (10) An associate must comply with a direction under subsection (8) or (9)(a).

Penalty for this subsection: a fine of \$30 000.
- (11) A wagering licensee must, as soon as practicable, notify the Commission if a person ceases to be an associate of the wagering licensee.

**10Y. Commission may give directions to wagering licensee in relation to wagering business**

- (1) The Commission may give a direction to a wagering licensee with respect to the following —
  - (a) systems of internal control and administrative and accounting procedures for the wagering business of the wagering licensee;
  - (b) a consumer protection policy.
- (2) A direction may be amended by the Commission as the Commission thinks fit.
- (3) A direction, or an amendment of a direction, has effect when written notice of it is given to the wagering licensee or on a later date specified in the notice.
- (4) The controls and procedures referred to in a direction, or in an amendment of a direction, may be described in

words or represented diagrammatically, or by a combination of both methods.

- (5) A power of approval, or other function, of the Commission specified in a direction may, if the direction allows it, be exercised or carried out by a person or body to whom it has been delegated under the *Gaming and Wagering Commission Act 1987* section 16.
- (6) A power or function exercised by a delegate under subsection (5) is as effective as if it were exercised by the Commission.

**10Z. Disclosure of certain information authorised**

For the purposes of the *Gaming and Wagering Commission Act 1987* section 20(3), the following is, when authorised by the Commission, taken to be a function performed in connection with that Act —

- (a) the communication of information concerning a person's affairs to another regulatory body established, in Australia or elsewhere, in relation to the administration or control of betting or for law enforcement purposes;
- (b) the provision of statistical data relating to the operations of a wagering licensee, subject to the agreement of the wagering licensee;
- (c) compliance with a request by any person, in relation to the affairs of that person relating to betting under this Part.

**10ZA. Amount deducted as commission by wagering licensee**

- (1) A wagering licensee may deduct from a bet received by the licensee an amount by way of commission.

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- (2) In relation to a bet with a totalisator, the amount must be —
    - (a) an amount not exceeding that prescribed for the bet; or
    - (b) an amount determined under the rules or arrangements referred to in section 10S(2).
  - (3) A wagering licensee must not deduct an amount from a bet other than in accordance with this section.

**10ZB. Unclaimed moneys**

- (1) In this section —
 

***moneys*** means moneys payable by a wagering licensee by way of totalisator dividends, fixed odds winnings or refunds;

***Sports Wagering Account*** means the account established under the *Gaming and Wagering Commission Act 1987* section 110A;

***unclaimed***, in relation to moneys, means unclaimed by any person entitled to them for 7 months after the moneys become payable.
- (2) The wagering licensee must pay moneys unclaimed in respect of bets made on sporting events into the Sports Wagering Account not later than the last business day of the month following the period of 7 months after the moneys become payable.
- (3) When moneys are paid into the Sports Wagering Account under subsection (2) —
  - (a) the moneys become part of the funds of that Account; and
  - (b) the person who was entitled to claim the moneys has no enforceable claim in respect of the moneys.

- (4) The wagering licensee must pay moneys that remain unclaimed in respect of bets other than bets made on sporting events to RWA not later than the last business day of the month following the period of 7 months after the moneys become payable.
- (5) When moneys are paid to RWA under subsection (4), the person who was entitled to claim the moneys has no enforceable claim in respect of the moneys.

**10ZC. Authorisation for *Competition and Consumer Act 2010* (Cth) and Competition Code**

- (1) In this section —
  - entering into* an arrangement —
    - (a) means entering into the arrangement, whether alone or with others; and
    - (b) includes any discussions and negotiations in respect of the arrangement;
  - giving effect to* an arrangement includes —
    - (a) complying with any obligation under the arrangement; and
    - (b) exercising or enforcing any right or power under the arrangement;
  - specified person* means any of the following —
    - (a) the Minister;
    - (b) an applicant for a wagering licence, a wagering licensee or a temporary licensee appointed under section 10O;
    - (c) RWA;
    - (d) a licensed racing club;
    - (e) related bodies corporate, as defined in the *Corporations Act 2001* (Commonwealth), of the persons specified in paragraphs (a) to (d).



- (2) For the purposes of the *Competition and Consumer Act 2010* (Commonwealth) and the Competition Code of Western Australia, the following things are authorised by this Act —
- (a) the grant of a wagering licence or appointment of a temporary licensee under section 100;
  - (b) conduct authorised or required by or under the conditions of a wagering licence or appointment of a temporary licensee under section 100;
  - (c) the entering into, giving effect to, or amendment or enforcement, by specified persons of any of the following —
    - (i) a wagering licence agreement;
    - (ii) a racing industry arrangement;
    - (iii) an arrangement associated with, and necessary or convenient for giving effect to, the RWA Act section 35(1);
  - (d) a prescribed arrangement or class of arrangement;
  - (e) an arrangement associated with, and necessary or convenient for giving effect to, a licence, appointment or arrangement referred to in this subsection.

**10ZD. Confidential police information**

- (1) This section applies if —
- (a) the Minister —
    - (i) refuses to grant or extend a wagering licence; or
    - (ii) amends, suspends or cancels a wagering licence;
- and

- (b) the decision to do so is made solely or partly on the basis of confidential police information as defined in the *Gaming and Wagering Commission Act 1987* section 20A(1).
- (2) The Minister is not required to give any reasons for the decision other than that the decision is made in the public interest.

**48. Part 2 heading amended**

In the heading to Part 2 delete “**Licences,**” and insert:

**Other licences,**

**49. Section 11G amended**

In section 11G(4):

- (a) in paragraph (c) delete “licence,” and insert:

licence; and

- (b) after paragraph (c) insert:

(d) the rules of betting,

**50. Section 12 amended**

- (1) In section 12(3) delete “sporting”.
- (2) In section 12(3a) and (3b) delete “supervise” and insert:

monitor

(3) Delete section 12(7) and insert:

- (7) RWA must report to the Commission, as soon as is practicable, the result of any hearing or appeal conducted under the RWA Act relating to improper conduct on the part of a bookmaker, licensed manager or licensed employee.

**51. Part 3 heading amended**

In the heading to Part 3 delete “**Levies**” and insert:

**Bookmaking**

**52. Section 14 inserted**

At the beginning of Part 3 insert:

**14. Bets transmitted from racing club to wagering licensee**

- (1) If a wagering licensee is conducting totalisator betting on a race, a racing club may transmit any bet received by the club on that race to the wagering licensee for inclusion in a totalisator pool conducted by the wagering licensee.
- (2) The wagering licensee may —
  - (a) include a bet received from a racing club in the totalisator pool; or
  - (b) further transmit a bet received from a racing club to a totalisator pool operated under a combined totalisator pool scheme referred to in section 10S.

**53. Section 14A deleted**

Delete section 14A.

**54. Section 17 amended**

In section 17 delete “sporting” (each occurrence).

**55. Section 17B amended**

- (1) In section 17B(1) delete “subsection (3)” and insert:

subsections (1A) and (3)

- (2) After section 17B(1) insert:

(1A) A totalisator is not operated in accordance with an authorisation conferred by subsection (1) unless it is operated in accordance with this Act, the regulations and rules of betting.

- (3) In section 17B(9) delete “wagering as defined in the RWWA Act.” and insert:

betting.

**56. Sections 17E and 17EA deleted**

Delete sections 17E and 17EA.

**57. Section 20 amended**

- (1) In section 20(2):  
(a) delete paragraph (d);

(b) delete paragraph (e) and insert:

(e) a betting agency or other premises of a wagering licensee.

(2) In section 20(3)(a) and (b) delete “levy or”.

(3) In section 20(3):

(a) delete paragraph (d) and insert:

(d) to audit records required to be kept under this Act;

(b) in paragraph (e)(ii) delete “Act; or” and insert:

Act;

(c) delete paragraph (e)(iii);

(d) delete paragraph (f) and insert:

(f) any other purpose relevant to the administration of this Act.

**58. Section 20A amended**

(1) In section 20A(7)(a) delete “Act or the RWWA”.

(2) In section 20A(7)(b) delete “levy or” (each occurrence).

**59. Section 20B amended**

(1) Delete section 20B(1)(b) and insert:

(b) a steward.

- (2) Before section 20B(2)(a) insert:

(aa) a wagering licensee;

**60. Section 20C amended**

In section 20C(2) delete “Act or the RWWA”.

**61. Section 21 amended**

- (1) In section 21(2)(d) delete “with or through RWWA” and insert:

with a wagering licensee

- (2) In section 21(3):

- (a) delete “A person to whom this subsection applies shall not knowingly — ” and insert:

A person to whom this subsection applies must not —

- (b) in paragraph (c) delete “totalisator agency or any other area specifically in use for the lodging and receiving of bets by RWWA” and insert:

betting agency or any other area specifically in use for the lodging and receiving of bets by a wagering licensee

- (c) in paragraphs (d) and (e) delete “any place” and insert:

a betting agency or any other place

(3) Delete section 21(4)(a) and insert:

- (a) in relation to a wagering licensee, officer, employee, contractor or agent of a wagering licensee, or employee of an agent of a wagering licensee; and

**62. Section 22 amended**

In section 22(2):

- (a) in paragraph (a) delete “totalisator” and insert:

betting

- (b) in paragraph (b) delete “with or through RWWA; or” and insert:

with a wagering licensee; or

- (c) in paragraph (d) delete “with or through RWWA” and insert:

with a wagering licensee

**63. Section 22A amended**

Delete section 22A(a)(iii) and insert:

- (iii) with a wagering licensee;

**64. Section 23 amended**

In section 23(1):

- (a) in paragraph (c)(ii) delete “RWWA” (each occurrence) and insert:

RWA

- (b) delete paragraph (d)(ii) and insert:

- (ii) with a wagering licensee in accordance with this Act; or

- (c) in paragraph (e) delete “1987.” and insert:

1987; or

- (d) after paragraph (e) insert:

- (f) the bet is an interstate or offshore bet made with an authorised person on a permitted contingency, as those terms are defined in section 27A(1).

**65. Section 24 amended**

- (1) In section 24(1):

- (a) delete paragraphs (a) and (b) and insert:

- (a) otherwise than under a licence, offers a fixed odds bet that is not —

- (i) an interstate or offshore bet as defined in section 27A(1); or



(ii) permitted gaming or social gambling as defined in the *Gaming and Wagering Commission Act 1987* section 3(1);

or

(b) makes a bet referred to in paragraph (a) with a person who is not the holder of a licence authorising the person to offer that bet; or

(b) in paragraph (c) before “bookmaker,” insert:

wagering licensee or

(2) In section 24(2) in the definition of ***bets*** delete “any event;” and insert:

a race, event or simulated race;

**66. Section 25 amended**

In section 25(3):

(a) delete “RWWA,” and insert:

a wagering licensee,

(b) delete “RWWA nor” and insert:

the wagering licensee nor

**67. Sections 25A to 25E inserted**

After section 25 insert:

**25A. Restrictions on publication and use of WA race fields**

A wagering service provider must not, in this State or elsewhere, publish, cause to be published, use or otherwise make available, a WA race field in the course of business unless —

- (a) the wagering service provider has obtained approval from RWA to publish, cause to be published, use or otherwise make available in the course of business, in this State or elsewhere, a WA race field (a *publication and use approval*); and
- (b) the wagering service provider complies with the conditions (if any) to which the publication and use approval is subject.

Penalty: a fine of \$5 000.

**25B. Application for WA race field publication and use approval**

- (1) A wagering service provider may apply to RWA for a publication and use approval.
- (2) An application for a publication and use approval must —
  - (a) be made within the time and in a form approved by RWA; and
  - (b) contain or be accompanied by any additional information RWA requires.

**25C. Publication and use approval**

- (1) On an application under section 25B, RWA may grant a publication and use approval.
- (2) RWA must —
  - (a) determine the application by either granting or refusing a publication and use approval; and
  - (b) notify the applicant in writing of RWA's decision to grant or refuse a publication and use approval.
- (3) A publication and use approval may be granted subject to any conditions RWA thinks fit, including a condition that the wagering service provider pay, in the manner specified in the approval, a fee or a series of fees of an amount or amounts —
  - (a) specified in the approval; or
  - (b) calculated in accordance with a formula or formulae specified in the approval.
- (4) Any fee that is payable as a condition of the approval is a debt due to RWA and may be recovered in a court of competent jurisdiction.
- (5) A publication and use approval —
  - (a) takes effect on the day specified by RWA in the approval; and
  - (b) remains in force for the period specified by RWA in the approval, unless revoked earlier under subsection (6).
- (6) At any time RWA, by written notice to the wagering service provider, may —
  - (a) vary a publication and use approval (including by varying the conditions to which the approval is subject); or

- (b) revoke a publication and use approval for any reasonable cause stated by RWA in the notice of revocation.

**25D. Review by State Administrative Tribunal**

- (1) A wagering service provider may apply to the State Administrative Tribunal for review of a decision of RWA —
  - (a) to refuse an application by the wagering service provider for a publication and use approval; or
  - (b) to impose a condition on a publication and use approval (other than a condition relating to the payment of a fee or series of fees) granted to the wagering service provider; or
  - (c) to vary or revoke a publication and use approval (other than by varying a condition relating to the payment of a fee or series of fees) granted to the wagering service provider.
- (2) An application for review must be made within 28 days after the later of —
  - (a) the day on which the decision was made; or
  - (b) if, under the *State Administrative Tribunal Act 2004* section 21, a wagering service provider requests a statement of reasons for the decision, the day on which —
    - (i) the statement of reasons is provided to the wagering service provider; or
    - (ii) the wagering service provider is informed under section 23(2) of that Act that a statement of reasons is not going to be provided.

**25E. Authorisation for *Competition and Consumer Act 2010* (Cth) and Competition Code**

For the purposes of the *Competition and Consumer Act 2010* (Commonwealth) and the Competition Code, the following things are authorised by this Act —

- (a) any arrangement entered into between RWA and any corresponding body of another State or a Territory in relation to the appointment of an agent to collect fees, or the collection by the agent or bodies of fees, that are payable to those bodies in relation to the publication or use of a WA race field;
- (b) the conduct of bodies and any agent in negotiating and entering an arrangement under paragraph (a);
- (c) the conduct of bodies and any agent in performing an arrangement under paragraph (a).

**68. Section 27 amended**

In section 27:

- (a) in paragraph (a)(i) delete “RWWA” (each occurrence) and insert:

RWA

- (b) delete paragraph (d).

**69. Section 27A amended**

(1) Delete section 27A(1) and insert:

(1) In this section —

***authorised person*** means —

- (a) a person authorised under the law of another State or a Territory to engage in or conduct betting on races or events, or contingencies relating to races or events; or
- (b) an offshore betting operator granted an exemption by the Commission under this section;

***interstate or offshore bet*** means a bet made —

- (a) on a race or event, or contingency relating to a race or event; and
- (b) by telephone or electronically by means of the internet, subscription television or any other online communications system; and
- (c) with a person who —
  - (i) is outside the State (including a person who is outside Australia); and
  - (ii) is not the holder of a licence under this Act;

***permitted contingency*** means —

- (a) a contingency relating to a race or event on which betting may be conducted under the rules of betting; or
- (b) a race or event, or contingency relating to a race or event, (other than a prohibited race, event or contingency) on which betting is permitted by the laws of another State or a Territory.

- (2) In section 27A(2) before “offshore” insert:

interstate or

- (3) In section 27(2A) and (2C) delete “an event or contingency that is not a permitted event or” and insert:

a race, event or contingency that is not a permitted

**70. Section 27D deleted**

Delete section 27D.

**71. Section 27E deleted**

Delete section 27E.

**72. Section 27F deleted**

Delete section 27F.

**73. Section 28C amended**

In section 28C:

- (a) in paragraphs (a) and (b) delete “totalisator” and insert:

betting

- (b) in paragraph (c) delete “totalisator agency sells or offers to sell any totalisator ticket purporting to be issued by RWWA; or” and insert:

betting agency sells or offers to sell any totalisator ticket purporting to be issued by a wagering licensee; or

**74. Sections 28E to 29 replaced**

Delete sections 28E to 29 and insert:

**28E. Penalty for totalisator officers accepting instructions as to investments on totalisators**

(1) In this section —

*totalisator officer* means —

- (a) an officer, employee, contractor or agent of a wagering licensee, or employee of an agent of a wagering licensee; or
- (b) an officer, employee or agent of a racing club using a totalisator, or any other person employed in connection with a totalisator.

(2) Except as provided in section 28F, a totalisator officer commits an offence if the officer accepts or acts on any telegraphic, telephonic or radiographic request, instructions or directions relating to investments on that totalisator, whether the request, instructions or directions are received on a racecourse or elsewhere.

Penalty for this subsection: a fine of \$1 000.

**28F. Non-application of s. 28D and 28E**

(1) The provisions of sections 28D and 28E do not apply —

- (a) to a wagering licensee, officer, employee, contractor or agent of a wagering licensee, or employee of an agent of a wagering licensee, in respect of any bet properly made with the wagering licensee in accordance with this Act; or
- (b) to an officer, employee or agent of a racing club using a totalisator, or any other person



employed in connection with a totalisator, in respect of the transmission to a totalisator of bets referred to in paragraph (a).

- (2) Despite any other written law, it is lawful to do any of the following —
- (a) communicate information to a betting agency for or in connection with the payment or crediting of dividends to persons making bets with a wagering licensee from —
    - (i) a racecourse; or
    - (ii) a venue at which an event, on or in relation to which betting is approved under section 4B, is held;
  - (b) broadcast information as to the amount of totalisator dividends payable on any race or event on which bets have been made through or with the wagering licensee, after those dividends have been declared on the totalisator or by the wagering licensee.

**29. Penalty for providing credit**

A wagering licensee, officer, employee, contractor or agent of a wagering licensee, or employee of an agent of a wagering licensee who accepts a bet with the wagering licensee involving the provision of credit by the wagering licensee commits an offence.

Penalty: a fine of \$5 000.

**75. Section 30 amended**

- (1) In section 30(1) delete “regulations or the Rules of Betting prescribed” and insert:

regulations or rules of betting

- (2) In section 30(2)(a) delete “regulations or Rules of Betting prescribed; or” and insert:

regulations or rules of betting; or

**76. Section 31 amended**

- (1) Delete section 31(1)(h) and insert:

(h) bet on anything other than —

(i) a race or contingency relating to a race;  
or

(ii) an event in respect of which betting is  
approved under section 4B(2) or a  
contingency relating to the event.

- (2) In section 31(2) delete “regulations or the Rules of Betting prescribed,” and insert:

regulations or rules of betting,

**77. Section 32A amended**

- (1) At the beginning of section 32A insert:

(1A) This section does not apply to a wagering licence or a  
wagering licensee.

- (2) In section 32A(2)(b)(i) delete “regulations or the Rules of Betting prescribed; or” and insert:

regulations or rules of betting; or

**78. Section 33 replaced**

Delete section 33 and insert:

**33. Regulations**

- (1) The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed for giving effect to the purposes of this Act.
- (2) Without limiting subsection (1), regulations may be made in relation to the following —
  - (a) provide for betting under this Act on races, events, contingencies relating to races or events, or simulated races, the recording of the bets, and the liabilities arising out of the bets;
  - (b) provide for the functions of stewards and other RWA officers in exercising the function under the RWA Act section 35(1)(aa);
  - (c) provide for the establishment of betting agencies;
  - (d) provide for —
    - (i) the licensing of bookmakers; and
    - (ii) the licensing of bookmakers' employees; and
    - (iii) the licensing of a manager of a bookmaker that is a body corporate or a partnership; and
    - (iv) the classification of bookmakers' licences; and
    - (v) terms and conditions upon which bookmakers' licences, or respective classes of bookmakers' licences, may be

- obtained and which must be observed by the holders of the licences; and
- (vi) payments to the Commission of, and amounts payable as, fees in respect of licences and applications for bookmakers' licences or respective classes of licences, and for different amounts to be payable in respect of different classes of licences; and
  - (vii) the variation, suspension and cancellation of bookmakers' licences, and the grounds upon which bookmakers' licences may be varied, suspended or cancelled; and
  - (viii) the requirement for bookmakers to keep accounts and records and furnish particulars of their betting transactions, and prescribing the form of betting tickets authorised to be used, the manner of cancellation of betting tickets, the particulars to be entered in the betting books and other matters relevant to those accounts, records and particulars; and
  - (ix) the prohibition or restriction of advertising by bookmakers, their agents, employees and licensed managers; and
  - (x) the requirement for bookmakers to give security for the due observance of this Act and the regulations, and of the terms and conditions of their licences;
- (e) provide for —
- (i) payments to the Commission of, and amounts payable as, fees in respect of permits within the meaning of

- section 4A and applications for those permits; and
- (ii) the conduct of persons and their agents and employees under this Act; and
  - (iii) the authorisation, regulation and control of betting by the use of totalisators and betting with a wagering licensee or a betting agency, any authorisation under this Act to possess and operate a totalisator, and any applicable licensing, commission or fees; and
  - (iv) the payment and charges in respect of matters other than licences or applications for licences; and
  - (v) the supply and use of betting material; and
  - (vi) the kinds of bet that may be made or accepted; and
  - (vii) the authorisation of the possession and operation of totalisators by racing clubs and, generally, for the duties of racing clubs in relation to the administration of this Act; and
  - (viii) the general administration of this Act; and
  - (ix) the imposition of a monetary penalty for breach of a regulation, or breach of a term or condition of a licence under this Act, not greater than the amount prescribed as a general penalty under section 30.

**79. Section 34 inserted**

After section 33 insert:

**34. Savings and transitional provision for TAB (Disposal) Act 2019**

(1) In this section —

*commencement day* means the day on which the TAB (Disposal) Act 2019 section 53 comes into operation;

*deletion* means deletion by the TAB (Disposal) Act 2019;

*section* means a section of this Act as in operation immediately before the commencement day.

(2) Despite the deletion of section 14A, the section continues in operation on and after the commencement day in relation to a bet placed before the commencement day.

**80. Various references to “race course” amended**

In the provisions listed in the Table delete “race course” (each occurrence) and insert:

racecourse

**Table**

s. 4(1) def. of <i>approved area</i>	s. 4A(1)(c)
s. 11A(5)(a)	s. 11B(10)(a)
s. 11C(7)(a)	s. 11D(5)(b) and (6)(a)

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s. 12(1), (3), (3a), (3b), (4), (4a), (5) and (6)	s. 12A(1a) and (2)(a)
s. 17B(1), (4) and (9)	s. 20(2)(a)
s. 20B(2)(d)	s. 23(1)(c)(ii) and (iii)
s. 27(a)(i) and (ii)	s. 31(1)(ii)
s. 32(1) and (2)(a)	

Note: The headings to the amended sections listed in the Table are to read as set out in the Table.

**Table**

<b>Amended section</b>	<b>Section heading</b>
s. 5	<b>Legalisation of betting</b>
s. 12	<b>Bookmaking on racecourses</b>
s. 20	<b>Entry and inspection of racecourses and certain other premises</b>
s. 23	<b>Prohibition of betting unless in accordance with this Act</b>
s. 28C	<b>Offences in respect of conducting betting agencies</b>
s. 32A	<b>Disciplinary powers for licensees other than wagering licensee</b>

**Part 7 — *Casino (Burswood Island) Agreement Act 1985*  
amended**

**81. Act amended**

This Part amends the *Casino (Burswood Island) Agreement Act 1985*.

**82. Section 3 amended**

- (1) In section 3 insert in alphabetical order:

*Fifteenth Supplementary Agreement* means the Fifteenth Supplementary Agreement, a copy of which is set out in Schedule 16;

- (2) In section 3 in the definition of *Agreement*:

- (a) in paragraph (b)(vi) delete “Agreement;” and insert:

Agreement; and

- (b) after paragraph (b)(vi) insert:

- (vii) the Fifteenth Supplementary Agreement;

**83. Section 4G inserted**

After section 4F insert:

**4G. Fifteenth Supplementary Agreement ratified and implementation authorised**

- (1) The Fifteenth Supplementary Agreement is ratified and its implementation is authorised.



- (2) Without limiting or otherwise affecting the application of the *Government Agreements Act 1979*, the Fifteenth Supplementary Agreement is to operate and take effect despite any other Act or law.

**84. Schedule 16 inserted**

After Schedule 15 insert:

**Schedule 16 — Fifteenth Supplementary Agreement**

[s. 3]

**Casino (Burswood Island) Agreement**

**FIFTEENTH SUPPLEMENTARY AGREEMENT**

**THIS AGREEMENT** made the 7<sup>th</sup> day of May 2019

BETWEEN:

**THE HONOURABLE PAUL PAPALIA MLA**, the Minister of the Crown for the time being charged with the administration of the *Casino Control Act 1984* acting for and on behalf of the State of Western Australia and its instrumentalities from time to time (“**the State**”)

**AND**

**BURSWOOD NOMINEES LIMITED** (ACN 078 250 307) of 201 Great Eastern Highway, Burswood in the State of Western Australia as trustee of the Burswood Property Trust (“**the Trustee**”)

**AND**

**BURSWOOD RESORT (MANAGEMENT) LIMITED** (ACN 009 396 945) of 201 Great Eastern Highway, Burswood in the State of Western Australia as manager of the Burswood Property Trust (“**the Manager**”).

**RECITALS:**

- A. The State, the Trustee (by virtue of the *West Australian Trustees Limited (Merger) Act 1989*) and the Manager (by virtue of a deed of retirement and appointment of manager made on 13 August 1990 and a deed of assumption and covenant made on 13 November 1991) are parties to an agreement dated 20 February 1985 ratified by and scheduled to the *Casino (Burswood Island) Agreement Act 1985* as amended by:
- (a) the Supplementary Agreement made on 14 September 1987;
  - (b) the Second Supplementary Agreement made on 3 May 1990;
  - (c) the Third Supplementary Agreement made on 13 November 1991;
  - (d) the Fourth Supplementary Agreement made on 30 March 1992;
  - (e) the Fifth Supplementary Agreement made on 3 April 1995;
  - (f) the Sixth Supplementary Agreement made on 22 June 1996;
  - (g) the Seventh Supplementary Agreement made on 9 June 1997;
  - (h) the Eighth Supplementary Agreement made on 18 June 2003;
  - (i) the Ninth Supplementary Agreement made on 23 November 2005;
  - (j) the Tenth Supplementary Agreement made on 2 November 2006;
  - (k) the Eleventh Supplementary Agreement made on 28 March 2007;
  - (l) the Twelfth Supplementary Agreement made on 12 May 2011;

(m) the Thirteenth Supplementary Agreement made on 16 March 2015; and

(n) the Fourteenth Supplementary Agreement made on 6 October 2016,

which agreement as so amended is referred to in this Agreement as “**the State Agreement**”.

- B. The parties have agreed to further amend the State Agreement for the purpose of more efficiently or satisfactorily implementing or facilitating its objectives.

**THE PARTIES AGREE AS FOLLOWS:**

**1. Definitions and Interpretation**

Words and expressions defined in the State Agreement when used in this Agreement have, unless the context otherwise requires, the same meanings as in the State Agreement and the provisions of clause 2 of the State Agreement as to interpretation apply to this Agreement.

**2. Variation and Operation**

- (a) The State shall introduce and sponsor a Bill in the Parliament of Western Australia to ratify this Agreement and endeavour to secure its passage as an Act.
- (b) The provisions of this Agreement other than this clause and clause 1 shall not come into operation until:
  - (i) the Bill referred to in sub-clause (a) has been passed by the Parliament of Western Australia and comes into operation as an Act; and
  - (ii) the ratification provisions of the Bill referred to in sub-clause (a) come into operation.
- (c) On the said Bill commencing to operate as an Act and the ratification provisions of the said Bill coming into operation, this Agreement shall operate and take effect according to its terms notwithstanding the provisions of any Act or law of Western Australia.

**3. Clause 2 amended**

Clause 2 of the State Agreement is amended by:-

- (a) inserting after the definition of "Authorised Game" the following definition:-

*"**Betting Agency**" has the meaning ascribed to that term in the Betting Control Act 1954;"*

- (b) inserting after the definition of "Scheme Act" the following definition:-

*"**Simulated Race**" means a game –*

- (a) *that consists of animated images of a thoroughbred race, harness race or greyhound race; and*
- (b) *the outcome of which is only determined by a random number generator that draws a set of numbers from a larger set of numbers,*

*and "**Simulated Races**" has an equivalent meaning."*

- (c) inserting after the definition of "Unit Holder" the following definition:-

*"**Wagering Licence**" means a licence granted pursuant to Part 1A of the Betting Control Act 1954;"*

**4. Clause 22 amended**

Clause 22 of the State Agreement is amended by:-

- (a) amending subclause (5)(d) by deleting the words "*the racing club.*" and replacing them with "*the racing club;*"; and

(b) inserting after subclause (5)(d) the following clause:-

*"(e) limit or affect the power of the State to authorise permit or approve the playing of and the conduct of wagering and betting on Simulated Races pursuant to a Wagering Licence provided that:*

*(i) the State does not authorise the operation at the same time of more than one Wagering Licence for Simulated Races; and*

*(ii) the Wagering Licence only authorises permits or approves in relation to Simulated Races:*

*(A) wagering and betting on Simulated Races by persons within, and not by persons outside, the physical premises of a Betting Agency located within the State;*

*(B) the playing and conduct of wagering and betting on Simulated Races within the hours of operation authorised by the Wagering Licence which will not exceed:*

*(I) in respect of a Betting Agency within premises licensed under the Liquor Control Act 1988, the "permitted hours" for those premises within the meaning given in the Liquor Control Act 1988; and*

*(II) in respect of any other Betting Agency, 14 hours in any 24 hour period; and*

*(C) Simulated Races which are for a minimum period of time (expressed in seconds), and which are separated by a minimum period of time (expressed*

*in minutes or seconds), neither of which is less than the equivalent minimum period which is imposed on the Trustee for Simulated Races.”*

AS WITNESS the execution of this Agreement by or on behalf of the parties the day and year first hereinbefore written.

SIGNED by **THE HONOURABLE** )  
**PAUL PAPALIA MLA** for and on )  
behalf of the State of Western Australia )  
Australia in the presence of: )

.....	P Papalia.....
Signature of witness	Signature of
	<b>THE HONOURABLE</b>
	<b>PAUL PAPALIA MLA</b>
Joy Edith Turvey.....	
Name of Witness	

THE COMMON SEAL of )  
**BURSWOOD NOMINEES LIMITED** )  
(ACN 078 250 307) was hereunto ) D.S.  
affixed by authority of the Board of )  
Directors in the presence of: )

.....	.....
Signature of authorised person	Signature of authorised person
Director.....	Secretary.....
Office held	Office held
Barry John Felstead.....	Joshua Robert Preston.....
Name of authorised person	Name of authorised person

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THE COMMON SEAL of )  
**BURSWOOD RESORT** )  
**(MANAGEMENT) LIMITED** )  
(ACN 009 396 945) was hereunto ) C.S.  
affixed by authority of the Board )  
of Directors in the presence of: )

.....  
Signature of authorised person

Director.....  
Office held

Barry John Felstead.....  
Name of authorised person

.....  
Signature of authorised person

Secretary.....  
Office held

Joshua Robert Preston.....  
Name of authorised person

**Part 8 — *Gaming and Wagering Commission Act 1987*  
amended**

**85. Act amended**

This Part amends the *Gaming and Wagering Commission Act 1987*.

**86. Section 3 amended**

- (1) In section 3(1) delete the definitions of:

*event*

*RWWA*

*RWWA Act*

- (2) In section 3(1) insert in alphabetical order:

*prescribed* means prescribed in the regulations;

*wagering licensee* has the meaning given in the *Betting Control Act 1954* section 4(1);

**87. Section 6 amended**

In section 6(4)(b) delete “the RWWA Act,”.

**88. Section 7 amended**

In section 7(1):

- (a) in paragraph (a)(ii) delete “1954 and the RWWA Act,” and insert:

*1954,*



- (b) in paragraph (da) delete “RWWA Act” and insert:

*Betting Control Act 1954*

**89. Section 8 amended**

- (1) In section 8(2):

- (a) in paragraph (c)(iiia) delete “events,” and insert:

an event as defined in the *Betting Control Act 1954*  
section 4(1) or a race,

- (b) in paragraph (d)(iii) delete “casinos; and” and insert:

casinos;

- (c) delete paragraph (d)(iv).

- (2) After section 8(2)(d)(i) insert:

- (ia) approvals of associates of wagering  
licensees under the *Betting Control*  
*Act 1954* section 10X; and  
(ib) licences of key employees of wagering  
licensees under regulations made under  
the *Betting Control Act 1954* section 8;  
and

**90. Section 18 amended**

- (1) In section 18(3) delete “Act, the RWWA” (each occurrence).

(2) In section 18(4):

- (a) in paragraph (a) delete “1954, the RWWA Act” and insert:

*1954*

- (b) in paragraph (ca)(i) delete “1954 or the RWWA Act; or” and insert:

*1954; or*

**91. Section 20 amended**

In section 20(3) delete “Act, the RWWA”.

**92. Section 20A amended**

In section 20A(1) in the definition of *relevant Act* delete “1954, the RWWA Act” and insert:

*1954*

**93. Section 24 amended**

Delete section 24(b) and insert:

- (b) ensure the proper and lawful exercise of the following —
- (i) a permit granted under this Act;
  - (ii) a permit or licence granted by the Commission under any other Act;
  - (iii) a wagering licence as defined in the *Betting Control Act 1954* section 4(1);
- and

**94. Section 40A amended**

Delete section 40A(c).

**95. Section 43A amended**

(1) In section 43A(3):

- (a) delete paragraph (a);
- (b) in paragraph (da) delete “betting on events; or” and insert:

betting; or

- (c) delete paragraph (d) and insert:

(d) any other prescribed person or prescribed class of person,

(2) Delete section 43A(4).

**96. Section 64 amended**

In section 64(3):

- (a) after paragraph (a) insert:

(aa) is a wagering licensee; or

- (b) in paragraph (c) delete “(a) or paragraph (b),” and insert:

(a), (aa) or (b),

**97. Section 80 amended**

In section 80(1)(a)(ii) delete “by RWWA under the RWWA Act” and insert:

under the *Racing Western Australia Act 2003*

**98. Section 93A amended**

- (1) In section 93A in the definition of *public premises* paragraph (a) delete “totalisator agency as defined in the *Racing and Wagering Western Australia Act 2003* section 3(1); or” and insert:

betting agency as defined in the *Betting Control Act 1954* section 4(1); or

- (2) In section 93A in the definition of *remote gambling device* delete “bet on an event or contingency.” and insert:

bet.

**99. Part VA deleted**

Delete Part VA.

**100. Section 109E inserted**

At the beginning of Part VI insert:

**109E. Commission's functions as to complaints about wagering licensee**

- (1) In this section —  
*wagering licensee* includes an officer, employee, contractor or agent of a wagering licensee, or employee of an agent of a wagering licensee.
- (2) The Commission or an authorised officer may —
  - (a) receive, investigate and deal with complaints from members of the public with respect to any aspect of the gambling operations of a wagering licensee under the *Betting Control Act 1954*; and
  - (b) advise the complainant of the result of the complaint.
- (3) For the purposes of subsection (2), the Commission and an authorised officer have, and may exercise in relation to the wagering licensee, like powers to those conferred on the Commission or an authorised officer, as the case may be, in relation to —
  - (a) gambling under this Act; and
  - (b) persons, premises or things relating to gambling.
- (4) If a member of the Police Force or other person acts in aid of an authorised officer at the request of that officer, the person so acting is taken whilst so acting to have, and to be authorised to exercise, the powers conferred by this section.

- (5) Nothing in this section limits the operation of the *Betting Control Act 1954* sections 20 to 20C.

**101. Section 110 amended**

In section 110(1)(a) delete “wagering conducted in accordance with the RWWA Act or”.

**102. Section 110A amended**

In section 110A(1) delete “RWWA under section 104 of the RWWA Act” and insert:

a wagering licensee under the *Betting Control Act 1954* section 10ZB

**103. Section 110B deleted**

Delete section 110B.

**104. Section 113 inserted**

After section 112 insert:

**113. Savings and transitional provisions for *TAB (Disposal) Act 2019***

- (1) In this section —
- commencement day*** means the day on which the *TAB (Disposal) Act 2019* section 103 comes into operation;
- deletion*** means deletion by the *TAB (Disposal) Act 2019*;
- section*** means a section of this Act as in operation immediately before the commencement day.

- (2) Despite the deletion of section 110B, the section continues in operation on and after the commencement day in relation to a bet placed before the commencement day as if references in that section to RWWA were to RWA.
- (3) The Racing Bets Levy Account established under section 110B is closed when all moneys standing to the credit of the account have been applied in accordance with the section.

**Part 9 — *Racing and Wagering Western Australia*  
*Act 2003* amended**

**Division 1 — Preliminary**

**105. Act amended**

This Part amends the *Racing and Wagering Western Australia Act 2003*.

**Division 2 — Provisions commencing on day after assent day**

**106. Section 3 amended**

- (1) In section 3(1) delete the definitions of:

**WAGRA**

**WATA**

**WATC**

- (2) In section 3(1) insert in alphabetical order:

***Racing Infrastructure Fund*** means the Racing Infrastructure Fund established by the *TAB (Disposal) Act 2019* section 27;

***wagering licensee*** has the meaning given in the *Betting Control Act 1954* section 4(1).

- (3) In section 3(1) in the definition of ***harness racing*** delete “the Australian Harness Racing Council,” and insert:

Harness Racing Australia,



**107. Section 10 amended**

- (1) In section 10(1) delete “if the person is —” and insert:

if the person is any of the following —

- (2) After section 10(1)(c) insert:

- (ca) a wagering licensee, officer, employee, agent or associate of a wagering licensee, or a person employed in a betting agency, as those terms are defined in the *Betting Control Act 1954* section 4(1);

- (3) In section 10(1)(j) delete “*Corporations Act 2001* of the Commonwealth.” and insert:

Corporations Act.

**108. Section 19 amended**

In section 19(1) in the Penalty delete “Penalty.” and insert:

Penalty for this subsection: a fine of

**109. Section 35 amended**

In section 35(1):

- (a) after paragraph (ba) insert:

- (bb) to enter into a racing industry arrangement, as defined in the *Betting Control Act 1954* section 10H(1), with the wagering licensee;

(b) after paragraph (f) insert:

- (fa) to coordinate an annual programme of race meetings; and
- (fb) to administer the Racing Infrastructure Fund; and

**110. Section 36 amended**

In section 36(3) delete “WATC” and insert:

The body known as The Western Australian Turf Club

**111. Section 37 amended**

In section 37(3) delete “WATA” and insert:

The Western Australian Trotting Association constituted under the *Western Australian Trotting Association Act 1946*

**112. Section 38 amended**

In section 38(3) delete “WAGRA” and insert:

The Western Australian Greyhound Racing Association established under the *Western Australian Greyhound Racing Association Act 1981*

**113. Section 46 amended**

In section 46(3) in the Penalty delete “Penalty:” and insert:

Penalty for this subsection: a fine of

**114. Section 68 amended**

After section 68(2)(a) insert:

- (aa) investment strategies and planned allocations from the Racing Infrastructure Fund;

**115. Section 77 amended**

After section 77(2)(b) insert:

- (ba) planned fund allocations from the Racing Infrastructure Fund;

**116. Section 113 amended**

In section 113(5) in the Penalty delete “Penalty:” and insert:

Penalty for this subsection: a fine of

**117. Section 115 amended**

In section 115 in the Penalty delete “Penalty:” and insert:

Penalty: a fine of

**118. Schedule 2 amended**

In Schedule 2 clause 4 in the Penalty delete “Penalty:” and insert:

Penalty: a fine of

**Division 3 — Provisions relating to commencement of wagering licence**

**119. Long title replaced**

Delete the long title and insert:

**An Act to establish Racing Western Australia and for related matters.**

**120. Short title amended**

Section 1 of the principal Act is amended by deleting “*and Wagering*”.

**121. Section 3 amended**

- (1) In section 3(1) delete the definitions of:

*combined totalisator pool scheme*

*fixed odds wager*

*gambling*

*gambling operations*

*gaming*

*rules of wagering*

*RWWA*

*sporting event*

*Sports Wagering Account*

*totalisator*

*totalisator agency*

*totalisator ticket*

*wagering*

- (2) In section 3(1) insert in alphabetical order:

**RWA** means the body corporate called Racing Western Australia that is established by section 4;

**122. Section 10 amended**

Delete section 10(1)(c) and (i).

**123. Section 14 deleted**

Delete section 14.

**124. Section 24 deleted**

Delete section 24.

**125. Section 29 amended**

Delete section 29(1) and insert:

- (1) RWA in performing its functions must act in accordance with prudent commercial principles.

**126. Section 31 amended**

Delete section 31(2).

**127. Section 35 amended**

(1) In section 35(1):

(a) delete “Parts 3 and 5,” and insert:

Part 3,

(b) after paragraph (a) insert:

(aa) to monitor whether betting by bookmakers and racing club totalisators is being conducted in accordance with the *Betting Control Act 1954* and, if it is not, to report this to the Commission; and

(c) delete paragraph (f);

(d) after paragraph (fb) insert:

(fc) to develop and implement a scheme for the distribution of funds to racing clubs; and

(fd) to enter into funding arrangements with individual racing clubs; and

(2) In section 35(2) delete “meetings on its own behalf.” and insert:

meetings.

**128. Section 45 amended**

In section 45(6)(e) delete “wagers” and insert:

bets

**129. Part 5 deleted**

Delete Part 5.

**130. Section 68 amended**

Delete section 68(2)(a) and insert:

- (a) revenue strategies, productivity levels, financial requirements, capital expenditure and personnel requirements; and

**131. Section 86 deleted**

Delete section 86.

**132. Section 99 deleted**

Delete section 99.

**133. Part 7 Division 5 heading amended**

In the heading to Part 7 Division 5 delete “**in relation to wagering**”.

**134. Sections 103 and 104 deleted**

Delete sections 103 and 104.

**135. Section 106 replaced**

Delete section 106 and insert:

**106. Allocation of RWA’s funds**

- (1) For the racing year commencing on 1 August immediately following the day on which the *TAB (Disposal) Act 2019* section 129 comes into operation, and for each subsequent racing year, RWA must pay or

credit the balance of its funds in accordance with this section after paying the following —

- (a) the respective amounts, required for the time being, to a reserve account opened under section 90;
  - (b) any grants or loans payable to racing clubs under section 92;
  - (c) any amount required to be paid under the *Racing Penalties (Appeals) Act 1990* section 24;
  - (d) all other outgoings and expenses incurred by RWA under this Act.
- (2) The balance of the funds is to be paid or credited by RWA, in such amounts as it determines, to the following —
- (a) thoroughbred racing clubs registered with RWA;
  - (b) harness racing clubs registered with RWA;
  - (c) greyhound racing clubs registered with RWA.
- (3) The funds may be paid or credited by periodical or other payment in such manner and at such times as RWA determines.

**136. Section 113 amended**

Delete section 113(3)(b) to (d) and insert:

- (b) a racecourse.

**137. Section 116 deleted**

Delete section 116.



**138. Section 120 deleted**

Delete section 120.

**139. Section 121 amended**

- (1) Delete section 121(2)(a), (b) and (g).
- (2) Delete section 121(3) and (4).

**140. Section 122 replaced**

Delete section 122 and insert:

**122. Transitional and savings provisions for TAB  
(Disposal) Act 2019**

- (1) In this section —  
*commencement day* means the day on which the TAB  
(Disposal) Act 2019 section 129 comes into operation;  
*deletion* means deletion by the TAB (Disposal)  
Act 2019;  
*former section* means a section of this Act as in  
operation immediately before the commencement day.
- (2) Racing Western Australia established by section 4 is a  
continuation of, and the same legal person as, Racing  
and Wagering Western Australia established by former  
section 4.
- (3) Despite the deletion of former section 86, the section  
continues in operation on and after the commencement  
day until the day that is 7 years after the  
commencement day.
- (4) Despite the deletion of former section 106, the section  
continues in operation on and after the commencement  
day in relation to the racing year commencing on  
1 August 2006 and each subsequent racing year up to

and including the racing year ending on 31 July immediately following the day on which the *TAB (Disposal) Act 2019* section 129 comes into operation.

- (5) Despite the deletion of former section 116, the section continues in operation on and after the commencement day in relation to a wager that was accepted by or on behalf of RWWA before the commencement day.

**141. Schedule 1 amended**

- (1) Delete Schedule 1 clause 2(1)(e).  
(2) In Schedule 1 clause 4(3) delete “10, 13 and 14” and insert:

10 and 13

**142. Various references to “Racing and Wagering Western Australia” amended**

In the provisions listed in the Table:

- (a) delete “RWWA” (each occurrence) and insert:

RWA

- (b) delete “RWWA’s” (each occurrence) and insert:

RWA’s

- (c) delete “**Racing and Wagering Western Australia**” and insert:

**Racing Western Australia**

- (d) delete “Racing and Wagering Western Australia” and insert:

Racing Western Australia

- (e) delete “**RWWA**” and insert:

**RWA**

- (f) delete “**RWWA**” and insert:

**RWA**

- (g) delete “**RWWA’s**” and insert:

**RWA’s**

- (h) delete “RWWA” (each occurrence) and insert:

RWA

**Table**

s. 3(1) def. of <i>board</i>	s. 3(1) def. of <i>CEO</i>
s. 3(1) def. of <i>greyhound racing</i>	s. 3(1) def. of <i>subsidiary</i>
s. 3(2) and (3)	Pt. 2 heading
s. 4	s. 5
s. 6	s. 7

s. 10	s. 12
s. 13	s. 17
s. 18	s. 19
s. 20	s. 21A
s. 21B	s. 21
s. 22	s. 23
Pt. 3 heading	s. 26
s. 27	s. 28
s. 30	s. 31
s. 32	s. 33
s. 35	s. 36
s. 37	s. 38
s. 39	s. 40
s. 41	s. 42
s. 43	s. 44
s. 45	s. 46
s. 48	s. 49
s. 66	s. 71
s. 75	s. 77

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s. 81	s. 82
s. 83	s. 83(5) def. of <i>information</i>
s. 84	s. 85
s. 87	s. 88
s. 89	s. 90
s. 91	s. 92
s. 94	s. 95
s. 96	s. 97
s. 98	s. 100
s. 101	s. 107B
s. 108	Pt. 8 Div. 1 heading
s. 109	s. 110
s. 111	s. 112
s. 118	s. 119
s. 121	Sch. 1 heading
Sch. 1 cl. 2, 7 and 8	Sch. 2 cl. 1, 3, 4, 5, 6, 7, 8, 13 and 14
Sch. 3 cl. 1 and 2	

Note: The headings to the amended sections listed in the Table are to read as set out in the Table.

**Table**

<b>Amended section</b>	<b>Section heading</b>
s. 4	<b>Racing Western Australia established</b>
s. 5	<b>RWA not an agent of the Crown</b>
s. 6	<b>RWA and officers not part of public sector</b>
s. 21A	<b>Remuneration of CEO while RWA is not a Government entity</b>
s. 21B	<b>Remuneration of CEO while RWA is a Government entity</b>
s. 27	<b>RWA can act at its discretion</b>
s. 31	<b>Use of names for RWA and its operations</b>
s. 43	<b>Directions by RWA</b>
s. 44	<b>Other disciplinary action that may be taken by RWA</b>
s. 46	<b>Production of racing club records to RWA</b>
s. 81	<b>Directions to RWA</b>
s. 88	<b>Accounts</b>
s. 92	<b>RWA may lend or grant money to racing clubs and allied bodies</b>
s. 109	<b>People dealing with RWA may make assumptions</b>
s. 118	<b>Execution of documents by RWA</b>

#### **Division 4 — Provisions relating to new race field regime**

##### **143. Section 35 amended**

Before section 35(1)(g) insert:

- (fe) to exercise the functions under the *Betting Control Act 1954* section 25C in relation to the approval of the publication and use of WA race

fields, including the collection of fees for those purposes; and

**144. Section 107A replaced**

Delete section 107A and insert:

**107A. Race field fees account**

- (1) Moneys paid to, or recovered by, RWA under the *Betting Control Act 1954* section 25C must be paid into an account (the ***race field fees account***) maintained under section 88 for the sole purpose of dealing with those moneys under this section.
- (2) Moneys in the race field fees account may be applied for the purpose of the payment of RWA's outgoings and expenses in administering the account and any remainder must be paid or credited by RWA, in such amounts as it determines, to —
  - (a) thoroughbred racing clubs registered with RWA; and
  - (b) harness racing clubs registered with RWA; and
  - (c) greyhound racing clubs registered with RWA.

## **Part 10 — Repeal and consequential amendments to other Acts**

### **145. *Anzac Day Act 1960* amended**

- (1) This section amends the *Anzac Day Act 1960*.
- (2) In section 4(1) delete “and Wagering”.

### **146. *Constitution Acts Amendment Act 1899* amended**

- (1) This section amends the *Constitution Acts Amendment Act 1899*.
- (2) In Schedule V Part 3 in the item relating to the board of Racing and Wagering Western Australia:
  - (a) delete “and Wagering”;
  - (b) delete “and Wagering”.

### **147. *Criminal Organisations Control Act 2012* amended**

- (1) This section amends the *Criminal Organisations Control Act 2012*.
- (2) In section 80(1)(h) delete “and Wagering”.

### **148. *Dog Act 1976* amended**

- (1) This section amends the *Dog Act 1976*.
- (2) In section 7(3)(d) delete “and Wagering”.
- (3) In section 30(3)(a) delete “and Wagering”.
- (4) In section 33(2)(b) delete “and Wagering”.

### **149. *Financial Management Act 2006* amended**

- (1) This section amends the *Financial Management Act 2006*.
- (2) In Schedule 1 in the item “Racing and Wagering Western Australia” delete “and Wagering”.



**150.     *Gaming and Betting (Contracts and Securities) Act 1985*  
          **amended****

- (1) This section amends the *Gaming and Betting (Contracts and Securities) Act 1985*.
- (2) In the Schedule delete the item “*Racing and Wagering Western Australia Act 2003*” and insert:

*Betting Control Act 1954*

**151.     *Parliamentary Commissioner Act 1971* **amended****

- (1) This section amends the *Parliamentary Commissioner Act 1971*.
- (2) In Schedule 1 in the Table in the row relating to Racing and Wagering Western Australia:
  - (a) delete “*and Wagering*”;
  - (b) delete “*and Wagering*”.

**152.     *Public Sector Management Act 1994* **amended****

- (1) This section amends the *Public Sector Management Act 1994*.
- (2) In Schedule 1 item 16:
  - (a) delete “*and Wagering*”;
  - (b) delete “*and Wagering*”.

**153.     *Racing Bets Levy Act 2009* **repealed****

The *Racing Bets Levy Act 2009* is repealed.

**154.     *Racing Penalties (Appeals) Act 1990* **amended****

- (1) This section amends the *Racing Penalties (Appeals) Act 1990*.
- (2) In section 3(1) delete the definitions of:

**RWWA**  
***RWWA Act***

- (3) In section 3(1) insert in alphabetical order:

**RWA** means Racing Western Australia established under the RWA Act;

**RWA Act** means the *Racing Western Australia Act 2003*;

- (4) In section 3(1) in the definition of **bookmaker** delete “licence” and insert:

bookmaker’s licence

- (5) In the provisions listed in the Table delete “RWWA” (each occurrence) and insert:

RWA

**Table**

s. 3(1) def. of <b>steward</b>	s. 3(2)
s. 12(1), (2) and (3)	s. 13(1)
s. 14(1)	s. 15(1) and (2)
s. 16(3)(d)(ia) and (4)	s. 17(7) and (9)
s. 19(1) and (2)(a)	s. 24(3) and (4)
s. 25(2)(a)	Sch. it. 3(2)(d)

**155. Racing Restriction Act 2003 amended**

- (1) This section amends the *Racing Restriction Act 2003*.
- (2) In section 3(1) delete the definition of **RWWA Act** and insert:

**RWA Act** means the *Racing Western Australia Act 2003*.

- (3) In the heading to Part 4 delete “**RWWA**” and insert:

**RWA**

- (4) In the provisions listed in the Table delete “RWWA” (each occurrence) and insert:

RWA

**Table**

s. 4	s. 5
s. 6	s. 7(2)(b)
s. 12(1) to (4), (6) and (7)	s. 13

Note: The heading to amended section 12 is to read:

**Non-thoroughbred racing — RWA licence**

**156. Salaries and Allowances Act 1975 amended**

- (1) This section amends the *Salaries and Allowances Act 1975*.
- (2) In Schedule 2 in the item relating to RWWA:
  - (a) delete “RWWA as defined” and insert:

RWA as defined

- (b) delete “*and Wagering*” (each occurrence);
- (c) delete “RWWA.” (each occurrence) and insert:

RWA.

**157. *Statutory Corporations (Liability of Directors) Act 1996* amended**

- (1) This section amends the *Statutory Corporations (Liability of Directors) Act 1996*.
- (2) In Schedule 1 in the Table in the row relating to Racing and Wagering Western Australia:
  - (a) delete “*and Wagering*”;
  - (b) delete “*and Wagering*”.

**158. *The Western Australian Turf Club Act 1892* amended**

- (1) This section amends *The Western Australian Turf Club Act 1892*.
- (2) In section 13(6) delete “*and Wagering*”.

**159. *Western Australian Greyhound Racing Association Act 1981* amended**

- (1) This section amends the *Western Australian Greyhound Racing Association Act 1981*.
- (2) In section 4 delete the definitions of:  
**RWWA**  
**RWWA Act**
- (3) In section 4 insert in alphabetical order:

---

**RWA** means Racing Western Australia established under the RWA Act;

**RWA Act** means the *Racing Western Australia Act 2003*;

- (4) In the provisions listed in the Table delete “RWWA” (each occurrence) and insert:

RWA

**Table**

s. 4 def. of <i>licensed</i>	s. 4 def. of <i>registered</i>
s. 4 def. of <i>rules of racing</i>	s. 5(6)

**160.     *Workers’ Compensation and Injury Management Act 1981*  
amended**

- (1) This section amends the *Workers’ Compensation and Injury Management Act 1981*.
- (2) In section 11A(1) in the definitions of *licensed facility*, *licensed jockey*, *licensed trainer* and *registered club* delete “and Wagering”.
- (3) In section 11(3)(a) and (b) delete “and Wagering”.
- (4) In section 159 in the definition of *deemed worker* paragraph (c) delete “and Wagering” (each occurrence).

## Part 11 — Review of Act

### 161. Review of Act

- (1) The Minister must review the operation and effectiveness of this Act, and prepare a report based on the review, as soon as practicable after the 3<sup>rd</sup> anniversary of the day on which the *TAB (Disposal) Act 2019* section 129 comes into operation.
- (2) The review must address the following —
  - (a) the impact of this Act on the State's racing industry including its funding;
  - (b) the structure and functions of Racing Western Australia established under the *Racing Western Australia Act 2003 (RWA)*;
  - (c) the efficacy of the administration of the Racing Infrastructure Fund by RWA under section 27-;
  - (d) [the impact of simulated racing on problem gambling.](#)
- (3) The Minister must cause the report to be laid before each House of Parliament as soon as practicable after it is prepared, but not later than 12 months after the 3<sup>rd</sup> anniversary.

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## Defined terms

*[This is a list of terms defined and the provisions where they are defined.  
The list is not part of the law.]*

Defined term	Provision(s)
acquirer .....	3, 30
applicable written law .....	32(1)
asset.....	3
bound recipient .....	25(1)
business day .....	16(5)
company.....	3
corporate vehicle.....	3
dispose of .....	3
disposer .....	3, 30
liability .....	3
net proceeds .....	26(1)
on land .....	5(1)
private entity .....	16(1)
publication day.....	36(1)
purposes .....	3
record .....	20(1)
relevant official .....	21(1)
relevant record .....	20(1)
right.....	3
RWWA .....	3
RWWA Act.....	3
section 8 disposal .....	3
specified .....	17(1)
State tax .....	33(1)
statutory corporation .....	16(1)
TAB .....	3
TAB asset.....	3
the State .....	36(1)
transfer order.....	3, 16(2)
transfer time .....	3
transferee.....	3, 16(2)
transferor.....	3, 16(2)