

TASMANIA

**RACING REGULATION (TRANSITIONAL
AND CONSEQUENTIAL PROVISIONS) BILL
2003**

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**RACING REGULATION (TRANSITIONAL
AND CONSEQUENTIAL PROVISIONS) BILL
2003**

*(Brought in by the Minister for Racing, Sport and
Recreation, the Honourable Paul Anthony Lennon)*

A BILL FOR

**An Act to provide for savings and transitional
matters and to effect certain repeals and
amendments consequent on the enactment of the
Racing Regulation Act 2003 and the *TOTE
Tasmania (Racing Regulation) Act 2003***

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

PART 1 – PRELIMINARY

Short title

1. This Act may be cited as the *Racing Regulation
(Transitional and Consequential Provisions) Act 2003*.

Commencement

2. This Act commences on the day on which the *Racing
Regulation Act 2003* commences.

THIS BILL IS COGNATE WITH THE *RACING REGULATION BILL 2003*

PART 2 – SAVINGS AND TRANSITIONAL***Division 1 – Interpretation*****Interpretation of Part****3. (1)** In this Part –

“commencement day” means the day on which the New Act commences;

“former Racing Act” means the *Racing Act 1983*;

“former Racing Regulation Act” means the *Racing Regulation Act 1952* in force immediately before the commencement day;

“New Act” means the *Racing Regulation Act 2003*;

“transitional period” means the 12-month period commencing on the commencement day.

(2) If an expression used in this Part is defined in section 3 of the New Act, it has, unless the contrary intention appears, the same meaning in this Part as in the definition in the New Act.

Division 2 – Offices and bodies**Director of Racing**

4. (1) The State Service officer or State Service employee who held the appointment of Director of Racing under the former Racing Act immediately before the commencement day continues in office as the Director of Racing under the New Act until –

(a) the appointment expires; or

- (b) the appointment is sooner terminated under the New Act.

(2) Any delegation of a function or power of the Director under section 15 of the former Racing Act and in force immediately before the commencement day is, if the equivalent function or power exists under the New Act, taken to be a delegation by the Director of that function or power under section 9 of the New Act.

Councils: members

5. A person who, immediately before the commencement day, was a member of one of the 3 specialist councils reconstituted under Part III of the former Racing Act continues in office as a member of that Council as continued under the New Act until –

- (a) the term of office for which the member was appointed or elected under the former Racing Act expires; or
- (b) the member's term of office is sooner terminated under the New Act.

Councils: stewards

6. A person who, immediately before the commencement day, held an appointment as a stipendiary steward for one of the 3 specialist councils reconstituted under Part III of the former Racing Act continues in office as a stipendiary steward for the same Council as continued under the New Act until –

- (a) the appointment expires; or

- (b) the appointment is sooner terminated under the New Act.

Councils: staff

7. (1) A person who, immediately before the commencement day, was an employee of one of the 3 specialist councils reconstituted under Part III of the former Racing Act continues, without prejudice to his or her existing or accruing leave, superannuation or other entitlements, as an employee of that Council as continued under the New Act.

(2) Until varied by the Council or by an applicable award, the person continues as an employee for the same remuneration as he or she was receiving immediately before the commencement day and on the same conditions.

Councils: construction of instruments, &c.

8. (1) If after the commencement day it is expedient to do so, a reference in any document to a Council by its corporate name under the former Racing Act may, unless the context or subject matter of the instrument indicates or requires otherwise, be construed by any person as a reference to the Council by its corporate name under the New Act.

(2) For the avoidance of doubt, the application of subsection (1) extends to –

- (a) documents used in legal proceedings commenced before the commencement day; and
- (b) contractual documents executed before the commencement day.

(3) In this section, “**Council**” means Harness Racing Tasmania or Greyhound Racing Tasmania.

Councils: elections

9. (1) Any election being held before the commencement day to elect a member of one of the 3 specialist councils reconstituted under Part III of the former Racing Act may, if the election had not been completed immediately before that day, be continued and completed as if the New Act had not been enacted.

(2) The declared result of any such election has effect under and for the purposes of the New Act.

(3) For the purposes of this section, an election is taken to have been completed once the returning officer for the election has caused notice of the declared election result to be published in any newspaper.

Tasmanian Racing Appeal Board (TRAB)

10. (1) A person who, immediately before the commencement day, held an appointment as an ordinary member of the former Board continues in office as an ordinary member of the new Board under the New Act until –

- (a) the appointment expires; or
- (b) the appointment is sooner terminated under the New Act.

(2) A person who, immediately before the commencement day, held the appointment of chairperson or deputy chairperson of the former Board continues in

office as chairperson or deputy chairperson, as the case may be, of the TRAB under the New Act until –

- (a) the appointment expires; or
- (b) the appointment is sooner terminated under the New Act.

(3) In this section –

“former Board” means the Tasmanian Racing Appeal Board (TRAB) as constituted under Part V of the former Racing Act;

“new Board” means the TRAB as constituted under Part 4 of the New Act;

“ordinary member” means a member of the TRAB other than the chairperson or deputy chairperson.

Division 3 – Entitlements

Club registration, &c.

11. (1) A club that was registered as a club under the former Racing Regulation Act is taken to be registered as a club under the New Act.

(2) Subsection (1) applies to a club even if its registration under the former Racing Regulation Act was suspended, but nothing in this section is to be taken as revoking, or reducing the period of, the suspension.

(3) Any winding-up being executed under section 45 of the former Racing Regulation Act (pursuant to the publication of a winding-up notice within the meaning of that section) may be continued and executed by the Director under section 46 of the New Act.

(4) Any approval given by the Director under section 45AA of the former Racing Regulation Act but not acted upon before the commencement day has effect as a permission for the purposes of section 47 of the New Act.

Bookmaker registration and telephone betting endorsements

12. (1) A person who was registered as a bookmaker under the former Racing Regulation Act is taken to be registered as a bookmaker under the New Act (on the same conditions, if any, as applied to the registration immediately before the commencement day) until –

- (a) the period for which the person was registered under the former Racing Regulation Act expires; or
- (b) the registration is sooner cancelled or surrendered under the New Act.

(2) If the person's certificate of registration as a bookmaker under the former Racing Regulation Act had a telephone betting endorsement, the endorsement also continues in force (on the same conditions, if any, as applied to the endorsement immediately before the commencement day) under the New Act until –

- (a) the period for which the person was registered under the former Racing Regulation Act expires; or
- (b) the registration is sooner cancelled or surrendered under the New Act.

(3) Subsections (1) and (2) apply even if, immediately before the commencement day, the person's registration as a bookmaker under the former Racing

Regulation Act was suspended, but nothing in this section is to be taken as revoking, or reducing the period of, the suspension.

Division 4 – Applications

Applications for registration

13. (1) An application for registration of any kind under the former Racing Regulation Act that had not been processed and finally determined immediately before the commencement day is, if equivalent registration is available under the New Act, to be regarded by the Director, TRAB and other persons as an application for that equivalent registration under the New Act and the application may continue to be processed and determined in all respects as if it were a valid application made under the New Act.

(2) If equivalent registration is not available under the New Act –

- (a)** the application lapses; and
- (b)** the application fee, if any, that accompanied the application is to be refunded in full to the applicant.

(3) The fee that is payable for an application referred to in subsection (1) is the same as the fee, if any, that was payable under the former Racing Regulation Act.

(4) The bond, indemnity or other form of security that is required to be given in relation to an application referred to in subsection (1) is the same as the bond, indemnity or other form of security, if any, that was required to be given under the former Racing Regulation Act.

Applications for telephone betting endorsements

14. (1) An application for a telephone betting endorsement under the former Racing Regulation Act that had not been processed and finally determined immediately before the commencement day is to be regarded by the Director and other persons as an application for a telephone betting endorsement under the New Act and the application may continue to be processed and determined in all respects as if it were a valid application made under the New Act.

(2) The application fee that is payable for the application is the same as the application fee that was payable under the former Racing Regulation Act.

(3) The bond, indemnity or other form of security that is required to be given in relation to the application is the same as the bond, indemnity or other form of security that was required to be given under the former Racing Regulation Act.

Division 5 – Proceedings, &c.**TRAB appeals**

15. (1) If an appeal under section 26 of the former Racing Act had not been completed immediately before the commencement day, the TRAB may proceed to hear, or continue to hear, and determine the appeal as if the New Act had not been enacted.

(2) On the completion of the appeal, the TRAB may make such orders as it thinks fit to ensure that its findings and determinations on the appeal are translated to the scheme of, and have effect under, the New Act.

(3) An order of the TRAB made under subsection (2) has effect as an order of the TRAB for the purposes of the New Act.

(4) For the purposes of this section, an appeal under section 26 of the former Racing Act is to be taken to have been completed as soon as the TRAB announces its findings, whether or not the reasons for those findings are given at the same time or a later time.

Inquiries

16. (1) Any inquiry being held by the Director under section 24, 60AA or 60AAB of the former Racing Regulation Act may, in the Director's discretion –

- (a) be continued as an inquiry under the New Act;
or
- (b) be discontinued.

(2) Any inquiry that was being held under section 30 of the former Racing Regulation Act is to be discontinued.

Commencement of proceedings under new Act

17. For the avoidance of doubt, section 103 of the New Act applies only to offences committed on or after the commencement day.

Section 57EA agreements

18. (1) The repeal by this Act of section 57EA of the former Racing Regulation Act does not terminate or invalidate any business agreement or arrangement

entered into by TOTE Tasmania under that section and still in force immediately before the commencement day.

(2) A business agreement or arrangement of the kind referred to in subsection (1) continues in force according to its terms.

Division 6 – Rules and miscellaneous

Rules of Racing

19. (1) The *Rules of Racing* that were in force for a code of racing under the former Racing Act immediately before the commencement day continue in force as the *Rules of Racing* for that code of racing under and for the purposes of the New Act.

(2) On or after the commencement day the *Rules of Racing* so continued in force may at any time be amended, or rescinded and replaced by new rules, in accordance with the New Act.

Approved sports events

20. (1) Any event that was the subject of a notice under section 63AA(1) of the former Racing Regulation Act is, if that notice was still in force immediately before the commencement day and not spent, taken to be an approved sports event within the meaning of and for the purposes of the New Act.

(2) The Director may, by notice published in the *Gazette*, revoke any notice under section 63AA(1) of the former Racing Regulation Act that was in force immediately before the commencement day.

(3) A notice published under subsection (2) is not a statutory rule within the meaning of the *Rules Publication Act 1953*.

Authorisations to enter racecourses

21. An authorisation under section 16 of the former Racing Act in force immediately before the commencement day continues in force as an authorisation under section 95(1) of the New Act.

Directions to bookmakers

22. To the extent that they are applicable under the New Act, any directions to bookmakers that were in force under section 59(3) of the former Racing Regulation Act continue in force and effect during the transitional period, according to their terms, as directions to registered bookmakers under and for the purposes of the New Act.

Directions of TOTE Tasmania to Councils

23. (1) To the extent that they are applicable under the New Act, any directions to a Council that were in force under section 16K of the former Racing Act immediately before the commencement day continue in force and effect during the transitional period, according to their terms, as directions to that Council under and for the purposes of the New Act.

(2) TOTE Tasmania may at any time during the transitional period rescind a direction referred to in subsection (1) or, by a further direction, amend any such direction.

Warning-off notices, &c.

24. (1) Any notice issued by a racing authority under section 39 or 101 of the former Racing Regulation Act that was still in force immediately before the commencement day continues in force on and after that day, according to its terms, as a warning-off notice issued by that racing authority under section 53 of the New Act.

(2) In this section, “**racing authority**” means the Director, a Council or a registered club.

***Division 7 – Preservation of former transitional
arrangements***

Preservation of 1999 restructuring transitionals

25. (1) Notwithstanding the repeal of the former Racing Act, section 40 of that Act continues to have effect on and after the commencement day as if it were re-enacted in this Act.

(2) For the purposes of this section, an expression used in section 40 of the former Racing Act has the same meaning as it had in that Act.

References to Tasmanian Principal Clubs Board

26. (1) In construing, on or after the commencement day, an instrument that was in force before the 1985 changeover day, a reference to the Board is, unless the contrary intention appears in the instrument, to be read as a reference to the Tasmanian Thoroughbred Racing Council.

(2) In this section –

“Board” means the Tasmanian Principal Clubs Board constituted under the former Racing Act as in force between 13 February 1984 and the 1985 changeover day;

“instrument” means a document, other than an Act, that creates, evidences, modifies or extinguishes rights or obligations;

“1985 changeover day” means the day fixed by proclamation under section 2(2) of the *Racing Amendment Act (No. 2) 1985*.

Division 8 – Regulations

Savings and transitional regulations

27. (1) The Governor may make regulations of a savings or transitional nature consequent on the repeal of the former Racing Act or former Racing Regulation Act and the enactment of the New Act or any Act with which the New Act is incorporated.

(2) Regulations made under this section may –

- (a) take effect on the commencement day or a later day as specified in the regulations, whether the day so specified is before, on or after the day on which the regulations are made; and
- (b) be made so as to apply differently according to matters, limitations or restrictions, whether as to time, circumstance or otherwise, specified in the regulations; and
- (c) authorise any matter to be from time to time determined, applied or regulated by the Minister or Director; and

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- (d) rescind any regulations or other subordinate legislation made under the former Racing Act or former Racing Regulation Act (or under any Act that amended either of those Acts).

PART 3 – ADMINISTRATION**Administration of Act**

28. Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act is assigned to the Minister for Racing, Sport and Recreation; and
- (b) the department responsible to that Minister in relation to the administration of this Act is the Department of Infrastructure, Energy and Resources.

PART 4 – REPEALS AND CONSEQUENTIAL AMENDMENTS

Consequential amendments

29. The legislation specified in Schedule 1 is amended as specified in that Schedule.

Acts repealed

30. The Acts specified in Schedule 2 are repealed.

Statutory Rules rescinded

31. The Statutory Rules specified in Schedule 3 are rescinded.

Statutory Rules revoked

32. The Statutory Rules specified in Schedule 4 are revoked.

SCHEDULE 1 – CONSEQUENTIAL AMENDMENTS

Section 29

Animal Welfare Act 1993

1. Section 25(2) is amended by omitting “registered club within the meaning of the *Racing and Gaming Act 1952*” and substituting “club registered under the *Racing Regulation Act 2003*”.

Annulled Convictions Act 2003

1. Part 5 of Schedule 1 is amended as follows:

- (a) by omitting from clause 3 “*Racing Regulation Act 1952*” and substituting “*Racing Regulation Act 2003*”;
- (b) by omitting from clause 4 “*Racing Regulation Act 1952*” and substituting “*Racing Regulation Act 2003*”.

Anzac Day Observance Act 1929

1. Section 3 is amended as follows:

- (a) by omitting the definition of “coursing”;
- (b) by omitting “*Racing and Gaming Act 1952*” from the definition of “race meeting” and substituting “*Racing Regulation Act 2003*”.

2. Section 4(1) is amended by omitting “and coursing”.

3. Section 5(1) is amended by omitting “, coursing,”.
4. Section 6 is amended by omitting “*Racing and Gaming Act 1952*” from the definition of “race meeting” and substituting “*Racing Regulation Act 2003*”.
5. Section 9(2) is amended by omitting paragraph (a).

Gaming Control Act 1993

1. Section 76B(4) is amended as follows:
 - (a) by omitting from paragraph (a)(i) “section 59 of the *Racing and Gaming Act 1952*” and substituting “the *Racing Regulation Act 2003*”;
 - (b) by omitting paragraph (c) and substituting the following paragraph:
 - (c) a gaming activity carried on by the company formed under section 6 of the *TOTE Tasmania Act 2000*; and

Judicial Review Act 2000

1. Clause 3 of Schedule 1 is amended by omitting paragraph (j) and substituting the following paragraph:
 - (j) *Racing Regulation Act 2003*;

Racing Regulation Act 1952

1. Section 1(1) is amended by omitting “Regulation” and substituting “(Totalizator Betting)”.

2. Section 3 is amended as follows:

- (a) by omitting the definitions of “approved event”, “area” and “authorised police officer”;
- (b) by omitting the definition of “betting premises”;
- (c) by omitting the definitions of “cease to race” and “chairperson”;
- (d) by omitting the definition of “city area”;
- (e) by omitting the definition of “Commissioner for State Revenue”;
- (f) by omitting the definitions of “Director”, “existing club” and “fee unit”;
- (g) by omitting the definition of “goods and services tax”;
- (h) by omitting the definitions of “harness racing” and “harness racing club”;
- (i) by omitting the definition of “horse-racing club”;
- (j) by omitting the definition of “occupier”;
- (k) by omitting the definitions of “proprietary club” and “public place”;
- (l) by omitting the definition of “RAB”;
- (m) by omitting the definition of “registered club”;

- (n) by omitting the definition of “telephone betting endorsement”;
- (o) by omitting the definition of “trotting-horse”.

3. Part III is repealed.

4. Section 57E is amended as follows:

- (a) by omitting subsection (2) and substituting the following subsection:

(2) Despite any law or rule of law to the contrary, it is lawful for persons to bet in a totalizator conducted by TOTE Tasmania in the performance of its function under subsection (1).

- (b) by omitting subsections (5), (6) and (7).

5. Section 57EA is repealed.

6. Sections 57QB, 57QC and 57QD are repealed.

7. Section 57U is amended by inserting after subsection (4) the following subsection:

(5) Despite any law or rule of law to the contrary, it is lawful for a club to conduct totalizator betting under a totalizator licence granted by TOTE Tasmania to the club’s committee pursuant to this section.

8. Section 57V(1) is amended by omitting “registered club.” and substituting “club registered under the *Racing Regulation Act 2003*.”.

9. Section 57ZP(b)(ii) is amended by inserting “within the meaning of section 36 of the *Racing Regulation Act 2003*” after “racecourse”.

10. Parts V and VI are repealed.

11. Sections 106, 107, 108, 109, 110, 111 and 111A are repealed.

12. Section 112 is amended as follows:

- (a) by omitting subsections (4), (7), (8), (9) and (10);
- (b) by omitting subsections (12B) and (13).

13. Sections 113 and 114 are repealed.

14. Section 117 is repealed.

15. Section 119 is amended as follows:

- (a) by omitting paragraphs (a), (b) and (bb) from subsection (2);
- (b) by omitting paragraph (d) from subsection (2);
- (c) by omitting subsections (3), (3A), (3B) and (4);
- (d) by omitting from subsection (6) “, other than a regulation containing such a provision as is mentioned in subsection (3B),”.

16. Sections 121, 122 and 124 are repealed.

17. Schedules II and III are repealed.

TT-Line Gaming Act 1993

1. Section 9 is amended by omitting subsection (2).

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SCHEDULE 2 – ACTS REPEALED

Section 30

Racing Act 1983 (No. 87 of 1983)

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SCHEDULE 3 – STATUTORY RULES RESCINDED

Section 31

Racing (Electoral) Regulations 1997 (No. 197 of 1997)

Racing (Electoral) Amendment Regulations 1998 (No. 7 of 1998)

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SCHEDULE 4 – STATUTORY RULES REVOKED

Section 32

Racing Order 1997 (No. 114 of 1997)