

TASMANIA

RACING REGULATION AMENDMENT (BOARD AMALGAMATION) BILL 2015

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RACING REGULATION AMENDMENT (BOARD AMALGAMATION) BILL 2015

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

SHANE DONNELLY, *Clerk of the House*
23 April 2015

*(Brought in by the Minister for Racing, the Honourable
Jeremy Page Rockliff)*

A BILL FOR

**An Act to amend the *Racing Regulation Act 2004* and,
consequent on those amendments, the *Racing
(Miscellaneous) Regulations 2004***

Be it enacted by Her 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

1. Short title

This Act may be cited as the *Racing Regulation
Amendment (Board Amalgamation) Act 2015*.

2. Commencement

This Act commences on 1 July 2015, but if this
Act has not received the Royal Assent on or
before that day, this Act commences on the day
on which it receives the Royal Assent.

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Part 2 – Racing Regulation Act 2004 Amended

**PART 2 – RACING REGULATION ACT 2004
AMENDED**

3. Principal Act

In this Part, the *Racing Regulation Act 2004** is referred to as the Principal Act.

4. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended as follows:

- (a) by omitting “the IAB or the TRAB, as the context indicates or requires” from the definition of *appeal* and substituting “the TRAB”;
- (b) by omitting “the IAB or TRAB, as the context indicates or requires” from the definition of *chairperson* and substituting “the TRAB”;
- (c) by omitting “the IAB or TRAB, as the context indicates or requires” from the definition of *deputy chairperson* and substituting “the TRAB”;
- (d) by inserting the following definition after the definition of *financial year*:

former IAB means the IAB Board, as established under this Act before

*No. 62 of 2004

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the commencement of the *Racing Regulation Amendment (Board Amalgamation) Act 2015*;

- (e) by omitting the definition of *IAB*;
- (f) by inserting the following definition after the definition of *made*:

major appeal means an appeal under section 28 that is not a minor appeal;

- (g) by inserting “under section 28” after “an appeal” in the definition of *minor appeal*;
- (h) by omitting “IAB or” from the definition of *respondent*;
- (i) by omitting “the IAB or TRAB, as the context indicates or requires” from the definition of *secretary* and substituting “the TRAB”;
- (j) by omitting the definition of *TOTE Tasmania*.

5. Section 4 amended (Application of Act)

Section 4 of the Principal Act is amended by omitting paragraph (a) and substituting the following paragraph:

- (a) the conduct of, or participation in, totalizator betting authorised under the *Gaming Control Act 1993*; or

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6. Part 4 repealed

Part 4 of the Principal Act is repealed.

7. Section 23 amended (Tasmanian Racing Appeal Board (TRAB))

Section 23 of the Principal Act is amended as follows:

- (a) by omitting paragraph (d) from subsection (7);
- (b) by omitting paragraph (f) from subsection (7);
- (c) by omitting subsections (8), (9) and (10) and substituting the following subsection:

(8) A member of the TRAB must not wager on a Tasmanian race meeting or with a Tasmanian registered bookmaker.

8. Section 28A inserted

After section 28 of the Principal Act, the following section is inserted in Part 5:

28A. Other rights of appeal to TRAB

- (1) A person may appeal to the TRAB if the person is aggrieved by a decision of the Director to –

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- (a) refuse to grant a licence, or approve a registration, under the *Rules of Racing*, of the person or a horse or greyhound owned, leased or trained by the person; or
 - (b) refuse to register the person as a bookmaker or bookmaker's agent; or
 - (c) cancel or suspend the person's registration as a bookmaker or bookmaker's agent; or
 - (d) refuse to endorse the person's certificate of registration as a bookmaker with a telephone betting endorsement; or
 - (e) cancel or suspend the person's telephone betting endorsement; or
 - (f) refuse to register a club of which the person is a member; or
 - (g) cancel or suspend the registration of a club of which the person is a member; or
 - (h) impose conditions on the person's licence, or registration, granted or approved under the *Rules of Racing*; or
 - (i) impose conditions on the person's registration as a bookmaker or bookmaker's agent; or

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- (j) impose conditions on the person's telephone betting endorsement; or
 - (k) impose conditions on the registration of a club of which the person is a member; or
 - (l) issue the person with a warning-off notice under section 54; or
 - (m) impose a fine on the person.
- (2) A wagering operator may appeal to the TRAB if the wagering operator is aggrieved by a decision of Tasracing to –
 - (a) refuse to grant approval to the wagering operator to publish Tasmanian race field information; or
 - (b) impose conditions, other than conditions referred to in section 54B(2)(a) and section 54B(2)(b)(i), in respect of a race field information publication approval; or
 - (c) cancel a race field information publication approval; or
 - (d) vary the conditions, other than conditions referred to in section 54B(2)(a) and section 54B(2)(b)(i), in respect of a race field information publication approval.

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- (3) A person may also appeal to the TRAB if the person is –
- (a) in dispute with a bookmaker regarding the placement, acceptance, payment, non-payment or amount of a bet; or
 - (b) aggrieved, as a registered bookmaker or bookmaker's agent, by the decision of a registered club to withdraw its permission for the person to engage in bookmaking on a racecourse under its control.
- (4) If a person has a right of appeal under this section against a decision of the Director, no appeal against that decision lies to the Director.
- (5) If a person has a right of appeal under this section against a decision of Tasracing or a registered club, no appeal against that decision lies to Tasracing or that club, as the case may be.
- (6) Subsections (4) and (5) have effect despite anything to the contrary that may be contained in –
- (a) the *Rules of Racing*; or
 - (b) the constitution, rules or articles of the registered club; or
 - (c) the constitution of Tasracing.

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9. Section 29 amended (How and when should persons appeal?)

Section 29 of the Principal Act is amended as follows:

- (a) by omitting paragraph (b) from subsection (2) and substituting the following paragraph:
 - (b) must specify –
 - (i) the parties to the appeal, the relevant decision and the grounds of appeal; or
 - (ii) if section 28A(3)(a) applies, the parties in dispute and the nature of the dispute.
- (b) by omitting from subsection (3)(ab) “any other appeal” and substituting “a major appeal or an appeal under section 28A(2) or section 28A(3)(b)”;
- (c) by inserting the following paragraphs after paragraph (b) in subsection (3):
 - (c) if section 28A(1) applies, 14 days after the day on which the person was issued with the warning-off notice, or the taking of the relevant decision by the Director, as the case may be; or

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- (d) if section 28A(3)(a) applies, 60 days after the conclusion of the event to which the disputed bet relates.

10. Section 30 amended (Hearing of appeals)

Section 30 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1)(d) “, if any,” after “transcript”;
- (b) by omitting from subsection (1)(e) “give” and substituting “in the case of an appeal under section 28(1)(b), give”;
- (c) by omitting from subsection (1A)(b) “any other appeal” and substituting “a major appeal”.

11. Section 31 amended (Constitution of TRAB for appeals, &c.)

Section 31 of the Principal Act is amended as follows:

- (a) by omitting paragraph (b) from subsection (1) and substituting the following paragraphs:
 - (b) 3 or more members for a major appeal; and
 - (c) 3 members for an appeal under section 28A.

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- (b) by omitting from subsection (2)(b) “for any other appeal” and substituting “for a major appeal or an appeal under section 28A”;
- (c) by inserting the following subsection after subsection (6):
 - (7) In choosing the members who are to constitute the TRAB for an appeal by a person, the chairperson must consider all available members and give due consideration to the nature of the issues likely to be involved in the appeal and attempt, as far as practicable, to ensure that there is not a risk of a member chosen being biased or having a conflict of interest, or being perceived to be biased or to have a conflict of interest, in relation to the appeal, by virtue of having been a member of the TRAB, or the former IAB, constituted in respect of a previous appeal to the TRAB, or the former IAB, by the person.

12. Section 33 amended (Suspension of penalties pending appeals)

Section 33 of the Principal Act is amended as follows:

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- (a) by inserting in subsection (2) “in relation to a major or minor appeal” after “subsection (1)”;
 - (b) by omitting from subsection (2)(b) “otherwise; or” and substituting “otherwise.”;
 - (c) by omitting paragraph (c) from subsection (2);
 - (d) by omitting subsection (3).

13. Section 34 amended (Determination of appeals)

Section 34 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1)(a) “or, if section 28A(3)(a) applies, make the orders in settlement of the dispute that it thinks fit” after “appeal”;
- (b) by omitting from subsection (1)(b) “may,” and substituting “if the appeal is made under section 28(1)(b), may,”;
- (c) by inserting the following subsections after subsection (4C):
 - (5) If, after hearing an appeal under section 28A(1) against a decision, the TRAB is satisfied that the appellant did not engage in the conduct that prompted the making of the decision but may have engaged in some other

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conduct that would have justified the respondent making another decision against the appellant, the TRAB may, if it considers it just to do so, make any decision that could have been made by the respondent in relation to the other conduct.

- (5A) A registered bookmaker who, following the determination of an appeal under section 28A(3)(a), is ordered by the TRAB to pay a bet must comply with that order.

Penalty: Fine not exceeding 20 penalty units and, in the case of a continuing offence, a further fine not exceeding 2 penalty units for each day during which the offence continues.

14. Section 38 amended (Race meeting permits)

Section 38(6)(b) of the Principal Act is amended by omitting “the IAB” and substituting “the TRAB”.

15. Section 51 amended (Appointment of stewards and other racing officials)

Section 51(2) of the Principal Act is amended by omitting “a panel consisting of the chairpersons of Tasracing and the IAB and the Director” and

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substituting “a panel, consisting of the chairperson of Tasracing, the Director and a person determined by the Secretary of the Department,”.

16. Section 109 amended (Regulations)

Section 109(3) of the Principal Act is amended by omitting paragraph (d).

17. Section 111 amended (*Rules of Racing*)

Section 111(2)(b) of the Principal Act is amended by omitting “the IAB,”.

18. Sections 112 and 112A inserted

After section 111 of the Principal Act, the following sections are inserted in Part 10:

112. Termination of membership of Boards consequent on *Racing Regulation Amendment (Board Amalgamation) Act 2015*

- (1) Despite the provisions of Schedule 3A as in force immediately before the commencement of the *Racing Regulation Amendment (Board Amalgamation) Act 2015*, on the commencement of that Act the appointment, as a member of the former IAB, of each person who is a member of the former IAB immediately before that commencement, is revoked.

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- (2) Despite clause 5(4) of Schedule 3B, on the commencement of the *Racing Regulation Amendment (Board Amalgamation) Act 2015* the appointment, as a member of the TRAB, of each person who is a member of the TRAB immediately before that commencement, is revoked.
- (3) A person is not entitled to any compensation or payment in respect of the revocation of his or her appointment as a member of the former IAB or the TRAB.
- (4) Nothing in this section is to be taken to prevent the appointment, or re-appointment, of a person as a member of the TRAB.

112A. Transitional and savings provisions consequent on *Racing Regulation Amendment (Board Amalgamation) Act 2015*

- (1) In this section –

commencement day means the day on which the *Racing Regulation Amendment (Board Amalgamation) Act 2015* commences;

repealed Part means Part 4 of this Act as in force immediately before the commencement day;

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right means any right, power, privilege
or immunity whether actual,
contingent or prospective.

- (2) A determination of an appeal that is made to the former IAB under section 22D, 22DA, 22E(a), or 22E (b), of the repealed Part and that is made by the former IAB before the commencement day is to be taken to be a determination of the appeal by the TRAB.
- (3) If an appeal is made to the former IAB under section 22D, 22DA, 22E(a), or 22E(b), of the repealed Part but is not withdrawn or abandoned, or determined by the former IAB, before the commencement day –
 - (a) the appeal is to be taken to be an appeal to the TRAB under section 28A(1), section 28A(2), section 28A(3)(a) or section 28A(3)(b) respectively; and
 - (b) if a hearing has been held in relation to the appeal by the former IAB before the commencement day, the matter is to be re-heard by the TRAB as if the matter had not been heard by the former IAB.
- (4) If an appeal could have been, but was not, made to the former IAB under

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section 22D, 22DA, 22E(a), or 22E(b), of the repealed Part before the commencement day, the appeal may be made to the TRAB under section 28A(1), section 28A(2), section 28A(3)(a) or section 28A(3)(b), respectively, within the period allowed under this Act for such an appeal, calculated from the day on which the decision to which the appeal relates was made.

- (5) An act (including the imposition of an order), matter or thing done or omitted to be done by, or done or suffered in relation to, the former IAB before the commencement day has, on and after that day, the same force and effect as if it had been done by, or done or suffered in relation to, the TRAB.
- (6) A document issued or made by the former IAB, or served on or by, or provided to or by, the former IAB, is taken to have been issued or made by, or served on or by, or provided to or by, the TRAB.
- (7) A legal proceeding instituted against the former IAB and pending immediately before the commencement day may, on and after that day, be continued against the TRAB.
- (8) A legal proceeding that could have been instituted against the former IAB to enforce a right that had accrued, or was

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in existence, immediately before the commencement day may, on and after that day, be instituted against the TRAB.

- (9) A judgment or order of a court obtained by or against the former IAB before the commencement day may, on and after that day, be enforced by or against the TRAB.
- (10) The Governor may make regulations of a savings or transitional nature consequent on the enactment of the *Racing Regulation Amendment (Board Amalgamation) Act 2015*.
- (11) 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 the 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 the Director.

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Part 2 – Racing Regulation Act 2004 Amended

19. Schedule 3A repealed

Schedule 3A to the Principal Act is repealed.

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Part 3 – Racing (Miscellaneous) Regulations 2004 Amended

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**PART 3 – RACING (MISCELLANEOUS)
REGULATIONS 2004 AMENDED**

20. Principal Regulations

In this Part, the *Racing (Miscellaneous) Regulations 2004** are referred to as the Principal Regulations.

21. Schedule 2 amended (Prescribed deposits)

Schedule 2 to the Principal Regulations is amended as follows:

(a) by omitting item 1 and substituting the following:

1.	30(2)	Deposit on an appeal to the TRAB under section 28A	\$200
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(b) by omitting “other appeals” from column 3 of item 3 in the table and substituting “a major appeal”.

*S.R. 2004, No. 168

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Part 4 – Concluding Provision

PART 4 – CONCLUDING PROVISION

22. Repeal of Act

This Act is repealed on the three hundred and sixty fifth day from the day on which it commences.