

TASMANIA

RACING REGULATION AMENDMENT (RACE FIELDS) BILL 2011

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RACING REGULATION AMENDMENT (RACE FIELDS) BILL 2011

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.

P. R. ALCOCK, *Clerk of the House*
10 March 2011

*(Brought in by the Minister for Racing, the Honourable Bryan
Alexander Green)*

A BILL FOR

**An Act to amend the *Racing Regulation Act 2004* and the
*Racing (Race Fields) Regulations 2009***

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

1. Short title

This Act may be cited as the *Racing Regulation Amendment (Race Fields) Act 2011*.

2. Commencement

- (1) Except as provided in this section, this Act commences on 1 April 2011, but if this Act does not receive the Royal Assent by 1 April 2011 it is taken to have commenced on that date.

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Part 1 – Preliminary

- (2) Parts 2 and 4 are taken to have commenced on 1 November 2010.
- (3) Part 6 commences on 1 July 2011.

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Part 2 – Racing Regulation Act 2004 Amended

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**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 inserting the following definition after the definition of “betting”:

“betting exchange” has the same meaning as in the *Gaming Control Act 1993*;

- (b) by omitting “Territory.” from the definition of “wagering operator” and substituting “Territory or any country;”.

5. Section 54B amended (Director may grant race field information publication approvals)

Section 54B of the Principal Act is amended as follows:

*No. 62 of 2004

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Part 2 – Racing Regulation Act 2004 Amended

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

(a) a condition that the approval holder pay, in the manner specified in the approval, in respect of the approval period that relates to the race (or class of races) covered by the approval, a fee or series of fees as determined by Tasracing by notice under this section;

(b) by inserting the following subsections after subsection (2):

(2A) For the purposes of subsection (2)(a), the approval period commences on 1 November 2010 and ends on 30 June 2011 regardless of what latter date is specified in the approval.

(2B) Tasracing is to –

(a) specify in a notice a fee or series of fees for an approval under subsection (1) that it determined for each code of racing and calculated in accordance with a formula or formulae specified in that notice or

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in a publication referred
to in that notice; and

- (b) publish that notice in the
Gazette as soon as
practicable after it makes
its determination.

(2C) A determination specified in a
notice published under subsection
(2B) is taken –

- (a) to have been made by that
notice on the date on
which it is executed by
Tasracing; and
- (b) to have taken effect on
and from
1 November 2010.

(2D) If a fee or series of fees
determined by notice under
subsection (2B) is expressed by
reference to a rate, percentage,
average or other calculation, the
notice is to specify, or refer to a
publication which specifies, the
formula or formulae for that rate,
percentage, average or other
calculation.

(2E) A notice referred to in subsection
(2B) is not a statutory rule within
the meaning of the *Rules
Publication Act 1953*.

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- (2F) Section 47(3)(c), (4), (5), (6) and (7) of the *Acts Interpretation Act 1931* applies to a notice under subsection (2B) as if the notice were regulations that were published in accordance with section 47(3)(a) of that Act.
- (c) by omitting subsections (3), (4), (4A) and (4B) and substituting the following subsections:
 - (3) In determining a fee referred to in subsection (2B)(a), Tasracing must consult with the relevant racing clubs for each code of racing.
 - (4) Any fee or series of fees that is payable under a race field information publication approval is a debt due to Tasracing and recoverable as such in a court of competent jurisdiction and payable to Tasracing.
- (d) by omitting from subsection (5) “subsection (3)” and substituting “subsection (2B)(a)”.

6. Section 61 amended (What does registration authorise?)

Section 61(1)(a) of the Principal Act is amended by inserting “and Part 6A” after “Part”.

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Part 2 – Racing Regulation Act 2004 Amended

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7. Section 83 amended (Payment of commission to Director)

Section 83(1) of the Principal Act is amended as follows:

- (a) by omitting paragraph (a);
- (b) by omitting from paragraph (b) “other bets” and substituting “bets, other than bets in relation to racing,”;
- (c) by omitting from paragraph (c) “other bets” and substituting “bets, other than bets in relation to racing,”.

8. Section 84 amended (Payment of commission to clubs)

Section 84 of the Principal Act is amended by omitting paragraphs (a) and (b).

9. Section 85 amended (Set-off for GST)

Section 85 of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “referred to in section 83(1)(b) and (c)” after “bets”;
- (b) by inserting in subsection (2) “referred to in section 83(1)(b) and (c)” after “the bets”.

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Part 3 – Racing Regulation Act 2004 Further Amended

**PART 3 – RACING REGULATION ACT 2004
FURTHER AMENDED**

10. Principal Act

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

11. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended as follows:

- (a) by inserting the following definitions after the definition of “approval application”:

“approval holder” means a wagering operator who holds a race field information publication approval;

“approval period” means the period commencing on 1 July in each year and ending on 30 June in the following year;

- (b) by omitting the definition of “totalizator” and substituting the following definition:

“totalizator” has the same meaning as in the *Gaming Control Act 1993*;

*No. 62 of 2004

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Part 3 – Racing Regulation Act 2004 Further Amended

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12. Section 7 amended (Powers of Director)

Section 7(2) of the Principal Act is amended by inserting after paragraph (fc) the following paragraph:

- (fd) determine the integrity conditions, being the conditions referred to in section 54B(2)(a), to be imposed in respect of a race field information publication approval granted by Tasracing; and

13. Section 11 amended (General functions and powers of Tasracing)

Section 11(1)(qa) of the Principal Act is amended as follows:

- (a) by inserting “, in consultation with the relevant racing clubs for each code of racing,” after “determining”;
- (b) by inserting “or series of fees” after “fee”.

14. Section 22 amended (Membership of IAB)

Section 22(6) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (d) “Director” and substituting “director”;

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Part 3 – Racing Regulation Act 2004 Further Amended

- (b) by omitting from paragraph (e) “member” and substituting “director”.

15. Section 22D amended (Persons may appeal to IAB against decisions of Director)

Section 22D of the Principal Act is amended by omitting paragraphs (ka), (kb) and (kc).

16. Sections 22DA, 22DB and 22DC inserted

After section 22D of the Principal Act, the following sections are inserted in Division 2:

22DA. Wagering operators may appeal to IAB against decisions of Tasracing

A wagering operator may appeal to the IAB 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

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Part 3 – Racing Regulation Act 2004 Further Amended

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- (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.

22DB. Appeals instituted before commencement of Part 3 of *Racing Regulation Amendment (Race Fields) Act 2011*

- (1) If an appeal under section 22D(ka), (kb) or (kc), as in force immediately before the commencement of Part 3 of the *Racing Regulation Amendment (Race Fields) Act 2011*, has been instituted but a hearing has not commenced in relation to the appeal before the commencement of that Part, the hearing is to be conducted as if the appeal had been instituted on or after the commencement of that Part.
- (2) If a hearing in relation to an appeal instituted under section 22D(ka), (kb) or (kc), as in force immediately before the commencement of Part 3 of the *Racing Regulation Amendment (Race Fields) Act 2011*, has commenced but has not been finally determined before the commencement of that Part, the hearing is to continue to be conducted as if that Part had not been enacted.

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- (3) For the purposes of subsections (1) and (2), a decision of the IAB has effect as if it were a decision of Tasracing.

22DC. Appeals not instituted before commencement of Part 3 of *Racing Regulation Amendment (Race Fields) Act 2011*

If an appeal under section 22D(ka), (kb) or (kc), as in force immediately before the commencement of Part 3 of the *Racing Regulation Amendment (Race Fields) Act 2011*, could have been, but was not, instituted before the commencement of that Part, the appeal may be instituted under section 22DA as if the decision of the Director were the decision of Tasracing.

17. Part 5: Heading amended

Part 5 of the Principal Act is amended by omitting “**TRAB**” from the heading to that Part and substituting “**TASMANIAN RACING APPEAL BOARD**”.

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

Section 23(7) of the Principal Act is amended as follows:

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- (a) by omitting from paragraph (d) “Director” and substituting “director”;
- (b) by omitting from paragraph (e) “member” and substituting “director”.

19. Part 6A: Heading amended

Part 6A of the Principal Act is amended by omitting “**AND USE**” from the heading to that Part.

20. Section 54B amended (Tasracing may grant race field information publication approvals)

Section 54B of the Principal Act is amended as follows:

- (a) by omitting subsections (1) and (2) and substituting the following subsections:
 - (1) A wagering operator who wishes to publish Tasmanian race field information in respect of a race (or class of races) intended to be held at any race meeting in Tasmania must apply to Tasracing for a race field information publication approval in respect of that race (or class of races).
 - (1A) On receipt of an application under subsection (1), Tasracing

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may grant a race field information publication approval to the wagering operator in respect of the race (or class of races) referred to in the application.

(2) In granting a race field information publication approval under subsection (1A), Tasracing –

(a) is to impose the integrity conditions determined by the Director pursuant to section 7(2)(fd) (being conditions of a kind that are prescribed as permissible conditions by the regulations); and

(b) may impose –

(i) a condition that the approval holder pay, in the manner specified in the approval, in respect of the approval period that relates to the race (or class of races) covered by the approval, a fee or series of fees as determined or

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varied by
Tasracing by
notice under this
section; and

(ii) such other
conditions as it
may determine.

- (b) by inserting in subsection (2A) “as in force immediately before the commencement of Part 3 of the *Racing Regulation Amendment (Race Fields) Act 2011*,” after “(2)(a),”;
- (c) by inserting in subsection (2B)(a) “, as in force immediately before the commencement of Part 3 of the *Racing Regulation Amendment (Race Fields) Act 2011*,” after “(1)”;
- (d) by inserting in subsection (2B)(a) “before the commencement of Part 2 of that Act” after “racing”;
- (e) by inserting in subsection (2D) “or varied by notice under subsection (4)” after “subsection (2B)”;
- (f) by omitting from subsection (2E) “subsection (2B)” and substituting “subsections (2B) and (4)”;
- (g) by omitting from subsection (2F) “subsection (2B)” and substituting “subsections (2B) and (4)”;

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(h) by omitting subsections (3), (4), (5) and (6) and substituting the following subsections:

- (3) For any approval period subsequent to the approval period referred to in subsection (2A), the fee or series of fees payable by an approval holder is the fee or series of fees as in effect on 1 April, unless otherwise specified in a notice in accordance with subsection (4) prior to that date, immediately preceding that subsequent approval period.
- (4) The fee or series of fees determined under this section may be reviewed by Tasracing from time to time, in consultation with the relevant racing clubs for each code of racing, and varied by Tasracing by notice published in the *Gazette*.
- (5) A variation specified in a notice published under subsection (4) is taken to have been made by that notice on the date on which the notice is executed by Tasracing.
- (6) If the fee or series of fees is varied pursuant to subsection (4), the fee or series of fees is payable in respect of the approval period

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specified in the notice referred to
in that subsection.

- (7) Any fee or series of fees that is payable under a race field information publication approval is a debt due to Tasracing and recoverable as such in a court of competent jurisdiction and payable to Tasracing.
- (8) Tasracing, at any time, may, by written notice to the approval holder –
 - (a) cancel the race field information publication approval; or
 - (b) vary the conditions of the approval, other than –
 - (i) the fee or series of fees referred to in subsection (2)(b)(i); or
 - (ii) the integrity conditions referred to in subsection (2)(a).
- (9) If Tasracing cancels or varies a race field information publication approval, Tasracing must provide the approval holder with written reasons indicating why the

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approval was cancelled or varied
(as the case may be).

21. Section 54C amended (Applications for race field information publication approvals)

Section 54C of the Principal Act is amended as follows:

- (a) by omitting subsections (1), (2), (3) and (4) and substituting the following subsection:
 - (1) An application for a race field information publication approval referred to in section 54B(1) must be –
 - (a) made in the manner and in the time determined by Tasracing from time to time; and
 - (b) accompanied by such information as may be required by Tasracing.
- (b) by omitting from subsection (5) “the Director” twice occurring and substituting “Tasracing”;
- (c) by omitting from subsection (5) “section 54B(2)” and substituting “section 54B(2)(b)(ii)”.

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Part 3 – Racing Regulation Act 2004 Further Amended

s. 22

22. Section 54D substituted

Section 54D of the Principal Act is repealed and the following section is substituted:

54D. Applications for race field information publication approvals lodged before commencement of *Racing Regulation Amendment (Race Fields) Act 2011*

If an application for a race field information publication approval made under section 54C(1), as in force immediately before the commencement of Part 3 of the *Racing Regulation Amendment (Race Fields) Act 2011*, has not been determined before the commencement of that Part, the application is to be determined as if it had been made on or after the commencement of that Part.

23. Section 63 amended (Cancellation, &c., of registration for certain convictions)

Section 63 of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:

- (1) The registration of a bookmaker or bookmaker's agent is taken to have been cancelled immediately if the bookmaker or bookmaker's agent is convicted of an offence against section 67, 68, 69, 70, 92, 93, 94 or 95.

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s. 24

Part 3 – Racing Regulation Act 2004 Further Amended

24. Section 80 repealed

Section 80 of the Principal Act is repealed.

25. Section 109 amended (Regulations)

Section 109(2) of the Principal Act is amended by omitting paragraph (i) and substituting the following paragraph:

- (i) the regulation of the publication of Tasmanian race field information by wagering operators, including, but not limited to, the integrity conditions in respect of race field information publication approvals.

26. Section 109A inserted

After section 109 of the Principal Act, the following section is inserted in Part 10:

109A. Further amendment of regulations not prevented

If an Act amending this Act also amends a provision of any regulations made under this Act, the amendment of the provision of the regulations does not prevent that provision or any other provision of the regulations from being amended or rescinded by a subsequent regulation.

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27. Schedule 3A amended (Further provisions relating to membership of IAB)

Clause 5(2)(e) of Schedule 3A to the Principal Act is amended by omitting “, the *Racing (Totalizator Betting) Act 1952*”.

28. Schedule 3B amended (Further provisions relating to membership of TRAB)

Clause 5(2)(e) of Schedule 3B to the Principal Act is amended by omitting “, the *Racing (Totalizator Betting) Act 1952*”.

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Part 4 – Racing (Race Fields) Regulations 2009 Amended

**PART 4 – RACING (RACE FIELDS) REGULATIONS
2009 AMENDED**

29. Principal Regulations

In this Part, the *Racing (Race Fields) Regulations 2009** are referred to as the Principal Regulations.

30. Regulation 3 amended (Interpretation)

Regulation 3(1) of the Principal Regulations is amended as follows:

- (a) by omitting the definitions of “assessable turnover” and “bet back”;
- (b) by omitting the definition of “betting exchange”;
- (c) by omitting the definitions of “gross revenue” and “GST”;
- (d) by omitting the definition of “race field information publication fee”.

31. Regulations 4 and 5 rescinded

Regulations 4 and 5 of the Principal Regulations are rescinded.

*S.R. 2009, No. 61

**PART 5 – RACING (RACE FIELDS) REGULATIONS
2009 FURTHER AMENDED**

32. Principal Regulations

In this Part, the *Racing (Race Fields) Regulations 2009** are referred to as the Principal Regulations.

33. Regulation 3 amended (Interpretation)

Regulation 3 of the Principal Regulations is amended as follows:

- (a) by omitting the definitions of “approval holder” and “approval period” from subregulation (1);
- (b) by omitting the definition of “key employee” from subregulation (1);
- (c) by omitting the definitions of “relevant financial interest”, “relevant position” and “relevant power” from subregulation (1);
- (d) by omitting subregulation (2).

*S.R. 2009, No. 61

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Part 5 – Racing (Race Fields) Regulations 2009 Further Amended

34. Regulation 6 amended (Other conditions on race field information publication approvals)

Regulation 6(1) of the Principal Regulations is amended as follows:

- (a) by omitting “section 54B(2)(b)” and substituting “section 54B(2)(a)”;
- (b) by omitting paragraphs (a) and (b);
- (c) by omitting paragraphs (d), (e), (f) and (g);
- (d) by omitting from paragraph (h)(viii) “Director.” and substituting “Director.”;
- (e) by inserting the following subparagraph after subparagraph (viii) in paragraph (h):
 - (ix) if the approval holder conducts wagering operations, in Australia or in a country outside Australia, requiring the approval holder to hold (and continue to hold) an appropriate licence or authority (however described) under relevant State or Territory legislation or legislation of that country outside Australia that authorises it to carry out those wagering operations.

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Part 5 – Racing (Race Fields) Regulations 2009 Further Amended

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35. Regulations 7, 8, 9 and 10 rescinded

Regulations 7, 8, 9 and 10 of the Principal
Regulations are rescinded.

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s. 36 Part 6 – Racing (Race Fields) Regulations 2009 Further Further Amended

**PART 6 – RACING (RACE FIELDS) REGULATIONS
2009 FURTHER FURTHER AMENDED**

36. Principal Regulations

In this Part, the *Racing (Race Fields) Regulations 2009** are referred to as the Principal Regulations.

37. Regulation 6 amended (Integrity conditions on race field information publication approvals)

Regulation 6(1) of the Principal Regulations is amended as follows:

- (a) by omitting paragraph (c);
- (b) by omitting subparagraph (vi) from paragraph (h) and substituting the following subparagraph:
 - (vi) requiring the approval holder to require any person who opens a wagering account with the approval holder to prove their identity in accordance with standards sufficient to comply with the prescribed verification procedure pursuant to the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* of the Commonwealth;

*S.R. 2009, No. 61

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Part 7 – Repeal

s. 38

PART 7 – REPEAL

38. Repeal of Act

This Act is repealed 12 months from the date specified in section 2(1).