

South Australia

AUTHORISED BETTING OPERATIONS ACT 2000

An Act to provide for the licensing and regulation of totalisator and other betting operations; and to amend the Criminal Law (Undercover Operations) Act 1995, the Gaming Supervisory Authority Act 1995, the Lottery and Gaming Act 1936 and the Workers Rehabilitation and Compensation Act 1986.

*This Act is reprinted pursuant to the Acts Republication Act 1967 and incorporates all amendments in force as at **14 December 2001**.*

AUTHORISED BETTING OPERATIONS ACT 2000

being

Authorised Betting Operations Act 2000 No. 95 of 2000
[Assented to 21 December 2000]¹

as amended by

Statutes Amendment (Gambling Regulation) Act 2001 No. 18 of 2001 [Assented to 31 May 2001]²
Statutes Amendment (Bookmakers) Act 2001 No. 64 of 2001 [Assented to 6 December 2001]³

¹ S. 2(2) came into operation on 21 December 2000: s. 2(3); remainder of Act (except ss. 3-12(11), 13(1)-(7), (10), 14-80, 82-92, Schedules 1 and 2) came into operation 25 January 2001: *Gaz.* 25 January 2001, p. 300; ss. 59 and 82 were repealed by Act No. 64 of 2001 before they were brought into operation; ss. 3-12(11), 13(1)-(7), (10), 14-45, 47, 50-58, 60-80, 83-92, Sched. 1 and Sched. 2 cls. 1, 3 & 4 came into operation 14 December 2001: *Gaz.* 6 December 2001, p. 5266; ss. 46, 48, 49 and Sched. 2 cl. 2 had not been brought into operation at the date of this reprint.

² Part 2 (except ss. 8-10) came into operation 14 December 2001: *Gaz.* 6 December 2001, p. 5267; ss. 8-10 had not been brought into operation at the date of, and the amendments effected by those provisions have not been included in, this reprint.

³ Part 2 (ss. 4 & 5) came into operation 7 December 2001: *Gaz.* 6 December 2001, p. 5267.

NOTE:

- Asterisks indicate repeal or deletion of text.
- For the legislative history of the Act see Appendix.

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The Parliament of South Australia enacts as follows:

**PART 1
PRELIMINARY**

Short title

1. This Act may be cited as the *Authorised Betting Operations Act 2000*.

Commencement

2. (1) Subject to this section, this Act will come into operation on a day to be fixed by proclamation.

(2) Section 7(5) of the *Acts Interpretation Act 1915* does not apply to this Act.

(3) Subsection (2) comes into operation on the day on which this Act is assented to by the Governor.

Interpretation

3. (1) In this Act, unless the contrary intention appears—

"**approved contingency**"—*see* section 4;

"**approved licensing agreement**"—*see* section 12;

"**authorised officer**" means—

- (a) the Commissioner; or
- (b) a member or the secretary of the Authority; or
- (c) an inspector; or
- (d) a police officer;

"**Authority**" means the Independent Gambling Authority established under the *Independent Gambling Authority Act 1995*;

"**betting shop licence**"—*see* section 34;

"**bookmaker**" includes a bookmaker's agent;

"**bookmaker's licence**"—*see* section 34;

"**cash facility**" means—

- (a) an automatic teller machine; or
- (b) an EFTPOS facility; or
- (c) any other facility, prescribed by regulation, that enables a person to gain access to his or her funds or to credit;

"**child**" means a person under the age of 18 years;

"**clerk's licence**"—*see* section 34;

"**close associates**"—*see* section 5;

"**Commissioner**" means the person for the time being holding or acting in the office of Liquor and Gambling Commissioner under the *Liquor Licensing Act 1997* (or the Commissioner's delegate);

"**compliance notice**"—*see* section 69;

"**duty**"—*see* sections 14 and 39;

"**duty agreement**"—*see* section 14;

"**executive officer**" of a body corporate is—

- (a) a secretary or public officer of the body corporate; or
- (b) a person responsible for managing the body corporate's business or any aspect of its business;

"**greyhound race**" or "**greyhound racing**" means a race or racing between greyhounds in competitive pursuit of a quarry or lure that is not a live animal;

"**harness race**" or "**harness racing**" means a pacing race or trotting race or pacing or trotting;

"**horse race**" or "**horse racing**" does not include a harness race or harness racing;

"**licensed betting shop**" means premises situated within the City of Port Pirie in respect of which a betting shop licence has been granted under Part 3;

"**licensed bookmaker**" means a person who is the holder of a bookmaker's licence;

"**licensed racing club**" means a racing club that is the holder of an on-course totalisator betting licence;

"**major betting operations licence**" means the licence granted under Part 2;

"**on-course totalisator betting**" means totalisator betting that takes place within a racecourse, and "**off-course totalisator betting**" has a corresponding meaning;

"**on-course totalisator betting licence**"—*see* section 34;

"**race**" or "**racing**" means—

- (a) a horse race or horse racing; or
- (b) a harness race or harness racing; or
- (c) a greyhound race or greyhound racing;

"**racecourse**" means a place where a race meeting is held by a racing club, and includes adjacent land or premises to which persons attending the meeting have access in connection with the meeting;

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"**race meeting**" means a meeting at which horse races, harness races or greyhound races are held;

"**racing club**" means a club or association that—

- (a) is a body corporate; and
- (b) is established for the purpose of holding race meetings; and
- (c) is unable, because of its constitution or its nature, lawfully to return profits to its members; and
- (d) —
 - (i) is related to a racing controlling authority through its membership of the authority, or its membership of a body that is a member of the authority; or
 - (ii) is registered by a racing controlling authority,

and includes a racing controlling authority that holds race meetings;

"**racing controlling authority**"—*see* section 6;

"**racing distribution agreement**"—*see* section 13;

"**State-owned company**" means a company incorporated under the *Corporations Law* all of the shares in which are held by Ministers of the Crown;

"**statutory default**"—*see* section 67;

"**substantial holding**" in a body corporate has the same meaning as in the *Corporations Law*;

"**TABCO**", "**TABCO(A)**" and "**TABCO(B)**" have the same respective meanings as in the *TAB (Disposal) Act 2000*;

"**totalisator betting**" means betting in accordance with a system under which the amount paid out in respect of a bet made on a particular contingency is affected by the total amount bet on that contingency, and "**totalisator bet**" has a corresponding meaning.

(2) In this Act, "**administrator**", "**controller**" and "**liquidator**" have (unless the contrary intention appears) the same respective meanings as in the *Corporations Law*.

Approved contingencies

4. (1) The Authority may, by notice in the *Gazette*, approve, for specified betting operations—

- (a) contingencies related to races within or outside Australia (other than races held by licensed racing clubs); or
- (b) contingencies related to sporting or other events within or outside Australia; or
- (c) other contingencies.

- (2) The Authority must not approve contingencies unless—
- (a) the Authority is satisfied as to the adequacy of standards of probity applying in relation to the contingencies and the appropriateness in other respects of the contingencies for the conduct of betting operations generally or the particular betting operations concerned; and
 - (b) the Minister has been given prior written notice of the proposal to approve the contingencies.
- (3) The Authority may, by further notice in the *Gazette*, vary or revoke an approval.
- (4) The Minister may give the Authority binding directions preventing or restricting the approval of contingencies.

Close associates

5. Two persons are close associates for the purposes of this Act if—

- (a) one is a spouse, parent, brother, sister or child of the other; or
- (b) they are members of the same household; or
- (c) they are in partnership; or
- (d) they are joint venturers; or
- (e) one is a body corporate and the other is a director or executive officer of the body corporate; or
- (f) one is a body corporate (other than a public company whose shares are listed on a stock exchange) and the other is a shareholder in the body corporate; or
- (g) one is a body corporate whose shares are listed on a stock exchange and the other has a substantial holding in the body corporate; or
- (h) one has a right to participate (otherwise than as a shareholder in a body corporate) in, or is remunerated by reference to, proceeds or profits derived from a business conducted by the other; or
- (i) one is in a position to exercise control or significant influence over the conduct of the other; or
- (j) a chain of relationships can be traced between them under any one or more of the above paragraphs.

Designation of racing controlling authorities

6. (1) The Governor may, by proclamation—

- (a) designate a body as the racing controlling authority for horse racing;
- (b) designate a body as the racing controlling authority for harness racing;
- (c) designate a body as the racing controlling authority for greyhound racing.

(2) The Governor may, by subsequent proclamation, substitute the body designated as a racing controlling authority.

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**PART 2
MAJOR BETTING OPERATIONS LICENCE**

DIVISION 1—GRANT, RENEWAL AND CONDITIONS OF LICENCE

Grant of licence

7. (1) The Governor may grant a major betting operations licence.

(2) There is not to be more than one major betting operations licence in force under this Act at the same time.

(3) The first grant of the licence is to be made to TABCO(A) without any need for application by the company.

(4) Any later grant of the licence is to be made, on the recommendation of the Authority, to an applicant for the licence.

(5) The Governor is not bound to act in accordance with the Authority's recommendation.

Eligibility to hold licence

8. The holder of the licence must be a body corporate.

Authority conferred by licence

9. The licence may authorise the licensee—

- (a) to conduct off-course totalisator betting on races held by licensed racing clubs;
- (b) to conduct off-course totalisator betting on approved contingencies;
- (c) to conduct on-course totalisator betting under agreements with licensed racing clubs on races held by licensed racing clubs and on approved contingencies;
- (d) to conduct other forms of betting on approved contingencies (other than fixed-odds betting on races within Australia on which licensed bookmakers are authorised to conduct betting),

in accordance with this Act.

Term and renewal of licence

10. (1) The licence is to be granted for a term fixed under the licensee's approved licensing agreement.

(2) If before the end of a term for which the licence has been granted or renewed a new approved licensing agreement, a new racing distribution agreement and a new duty agreement are entered into, the Governor may, on the recommendation of the Authority, renew the licence for a term fixed under the renegotiated approved licensing agreement.

(3) The Governor is not bound to act in accordance with the Authority's recommendation and the licensee is to have no entitlement to, or legitimate expectation of, renewal.

Conditions of licence

11. (1) The conditions of the licence consist of—

- (a) the conditions fixed by this Act; and

- (b) the conditions (**supplementary licence conditions**) fixed by or in accordance with the licensee's approved licensing agreement.

(2) Subject to the licensee's approved licensing agreement, the Governor may, on the recommendation of the Authority, vary supplementary licence conditions.

- (3) The Governor is not bound to act in accordance with the Authority's recommendation.

DIVISION 2—AGREEMENTS WITH LICENSEE

Approved licensing agreement

12. (1) There is to be an agreement (the **approved licensing agreement**) between the licensee and the Minister about—

- (a) the scope and operation of the licensed business; and
- (b) the term of the licence; and
- (c) the conditions of the licence; and
- (d) the performance of the licensee's responsibilities under the licence or this Act.

(2) The agreement may deal with other subjects relevant to the licence or the licensed business.

- (3) The agreement—

- (a) is to be entered into with a prospective licensee before the licence is granted or with the licensee before renewal of the licence; and
- (b) is to remain in force for the term of the licence; and
- (c) must be consistent with the provisions of this Act; and
- (d) has no effect unless approved by the Authority.

(4) If the agreement so provides, specified provisions of the agreement become conditions of the licence.

(5) The agreement may require the Minister, the Authority or the Commissioner to provide information relating to the licensee or the licensee's operations under the licence to a specified person and, if it does so, the information may be provided without breaching any other law.

(6) The agreement may contain provisions governing the exercise of powers of the Minister, the Authority or the Commissioner under this Act or the *Independent Gambling Authority Act 1995*.

- (7) The agreement binds—

- (a) the licensee; and
- (b) the Minister; and
- (c) the Authority; and

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- (d) the Commissioner; and
- (e) if the agreement so provides, any other person who consents to be bound by the agreement,

to the extent provided in the agreement.

(8) The agreement may contain provisions governing its variation by later agreement, but such a variation must be consistent with the provisions of this Act and has no effect unless approved by the Authority.

(9) The agreement may contain an assurance, on terms and conditions fixed in the agreement, that the licensee's right to conduct specified betting operations in this State will be an exclusive right and not be impugned during a period set out in the agreement.

(10) Despite the above provisions for approval of the agreement or a variation of the agreement by the Authority, an assurance under subsection (9) or a variation of the terms and conditions of such an assurance is not subject to approval by the Authority.

(11) The agreement must contain provisions fixing, for a form of betting in which the actual amounts payable on winning bets are not pre-determined, the maximum proportion of money invested that may be retained by the licensee.

(12) Entering into, giving effect to, or enforcing the agreement is, subject to conditions and limitations prescribed by regulation, authorised for the purposes of section 51 of the *Trade Practices Act 1974* of the Commonwealth, as in force from time to time, and the *Competition Code of South Australia*.

(13) In subsection (12)—

"**giving effect**" to the agreement includes complying with an obligation or exercising a right or power under the agreement.

Racing distribution agreement

13. (1) At all times during the term of the licence the licensee must have in force an agreement (the **racing distribution agreement**) with the racing industry about terms and conditions on which the licensee may conduct betting operations on races held by licensed racing clubs.

(2) Without limiting the matters that may be included in the agreement, the agreement must include provisions relating to—

- (a) the arrangement of racing programs and the provision of racing information to the licensee; and
- (b) the payments to be made by the licensee to the racing industry.

(3) The agreement is to be entered into with a prospective licensee before the licence is granted or with the licensee before renewal of the licence.

(4) The agreement may be varied by a later agreement between the parties.

(5) It is a condition of the licence that the licensee must perform its obligations under the agreement.

(6) Each racing controlling authority and its related licensed racing clubs are taken to be parties to a contract under seal under which each of the licensed racing clubs agrees to comply with any directions given by the controlling authority for the purposes of enabling the racing industry to perform its obligations and exercise its rights under the agreement.

(7) Each racing controlling authority must give directions to its related licensed racing clubs as required for the purposes of enabling the racing industry to perform its obligations and exercise its rights under the agreement.

(8) The following is, subject to conditions and limitations prescribed by regulation, authorised for the purposes of section 51 of the *Trade Practices Act 1974* of the Commonwealth, as in force from time to time, and the *Competition Code of South Australia*:

- (a) entering into, giving effect to, or enforcing the agreement in so far as such conduct prevents or restricts the acquisition by the licensee or another person specified in the agreement of racing information from a person other than the person specified in the agreement as the supplier of the information;
- (b) entering into, giving effect to, or enforcing the agreement in so far as such conduct prevents or restricts the supply by a person specified in the agreement of racing information to a person other than the licensee or another person specified in the agreement;
- (c) entering into, giving effect to, or enforcing the agreement in so far as such conduct prevents or restricts the supply by the licensee or a person specified in the agreement of racing information received in accordance with the agreement to another person;
- (d) entering into, giving effect to, or enforcing the agreement in so far as such conduct lessens competition in relation to the conduct of on-course totalisator betting operations;
- (e) entering into, giving effect to, or enforcing provisions of the agreement prescribed by regulation.

(9) In this section—

"**giving effect**" to the agreement, or provisions of the agreement, includes—

- (a) complying with an obligation or exercising a right or power under the agreement or provisions; and
- (b) giving or complying with a direction referred to in subsection (6) or (7);

"**racing industry**" means either or both of the following:

- (a) the racing controlling authorities; or
- (b) a body for the time being nominated to the Minister by the racing controlling authorities as a body representative of the racing controlling authorities;

"**racing information**" means information about races held within the State or elsewhere in Australia;

"**related licensed racing club**", in relation to a racing controlling authority, means a licensed racing club that—

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- (a) is related to the racing controlling authority through its membership of the authority, or its membership of a body that is a member of the authority; or
- (b) is registered by the racing controlling authority.

(10) Despite the preceding subsections, there is no requirement for there to be a racing distribution agreement while TABCO is the licensee and is a State-owned company, but a racing distribution agreement must be entered into before—

- (a) a person other than TABCO becomes the licensee; or
- (b) TABCO, as the licensee, ceases to be a State-owned company.

Duty agreement

14. (1) There is to be an agreement (the **duty agreement**) between the licensee and the Treasurer requiring the licensee to pay duty to the Treasurer in respect of the licensee's operations under the licence.

(2) The agreement may require the licensee to pay all or part of unclaimed winnings or totalisator fractions (or both) to the Treasurer and, if it does so require, a reference in this Part to duty is to be taken to include a reference to the amounts so required to be paid.

(3) The agreement may—

- (a) fix the amount, or basis of calculation, of duty; and
- (b) provide for payments of duty; and
- (c) deal with interest and penalties to be paid for a late payment or non-payment of duty; and
- (d) require the lodging of periodic returns.

(4) The rate of duty fixed in respect of betting on races conducted in this State by a body (other than a licensed racing club) pursuant to a licence under another Act (when averaged over a financial year) must not be less than the rate of duty fixed in respect of betting on other forms of races conducted in this State (when averaged over that financial year).

(5) The agreement is to be entered into with a prospective licensee before the licence is granted or with the licensee before renewal of the licence, and is to remain in force for the term of the licence.

(6) The agreement may be varied by a later agreement between the parties.

(7) The agreement or an agreement for variation of the agreement operates as a deed, despite the absence of the formalities of execution and delivery.

(8) The agreement does not attract stamp duty.

(9) Before entering into the agreement, the Treasurer may require the licensee or prospective licensee to give security for compliance with its obligations under the agreement.

Approved licensing agreement and duty agreement to be tabled in Parliament

15. (1) The Minister must, within 12 sitting days after—

- (a) the Authority approves an agreement entered into by the Minister with a view to the agreement becoming an approved licensing agreement under this Division; or
- (b) the Authority approves an agreement for the variation of an approved licensing agreement,

have copies of the agreement laid before both Houses of Parliament.

(2) The Treasurer must, within 12 sitting days after entering into a duty agreement or an agreement for the variation of a duty agreement, have copies of the agreement laid before both Houses of Parliament.

DIVISION 3—DEALINGS WITH LICENCE OR LICENSED BUSINESS

Transfer of licence

16. (1) The Governor may, on the recommendation of the Authority, approve the transfer of the licence.

(2) The Governor may, on the recommendation of the Minister, approve the transfer of the licence from TABCO(A) to TABCO(B).

(3) On a transfer of the licence—

- (a) the transferee succeeds to all the rights and obligations of the transferor under the approved licensing agreement, the racing distribution agreement and the duty agreement; and
- (b) the approved licensing agreement governs the conditions of the licence in the same way and to the same extent as before the transfer.

(4) The Governor is not bound to act in accordance with the Authority's recommendation.

Dealings affecting licensed business

17. (1) The licensee must not enter into any of the following transactions without the approval of the Authority:

- (a) a partnership agreement that relates to betting operations conducted or to be conducted under the licence;
- (b) an agreement or arrangement under which the licensee conducts or is to conduct betting operations under the licence jointly with another or as the agent of another;
- (c) an agreement or arrangement under which a person participates in, or is remunerated by reference to, proceeds or profits of the business conducted or to be conducted under the licence;
- (d) a transaction to mortgage, charge or encumber the licence or assets associated with operations under the licence;
- (e) an agreement or arrangement under which the licensee disposes of, or grants an interest in, the business conducted under the licence.

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(2) This section does not invalidate an agreement or arrangement made subject to a condition precedent under which it is not to take effect until approved by the Authority.

(3) This section does not apply in relation to a transaction entered into by TABCO while it is a State-owned company.

Other transactions under which outsiders may acquire control or influence

18. (1) This section applies to a transaction if it is a transaction (other than one for which the Authority's approval is required under this Division) under which a person or a group of persons who are close associates of each other attain a position of control or significant influence over the conduct of the licensee.

(2) Within 14 days after the licensee becomes aware of a transaction to which this section applies, the licensee must—

- (a) inform the Commissioner and the Authority of the transaction; and
- (b) provide any information about the transaction that is available to the licensee.

Maximum penalty: \$50 000.

(3) If the licensee is a party to a transaction to which this section applies, and the transaction takes effect before the Authority approves it, the licensee is liable to disciplinary action.

(4) If a transaction to which this section applies has not been approved or ratified by the Authority, the Authority may, after allowing the parties to the transaction a reasonable opportunity to be heard, make orders of one or more of the following kinds:

- (a) an order avoiding the transaction;
- (b) an order requiring a person who has acquired an interest under the transaction to dispose of that interest within a specified time;
- (c) an order terminating a contractual or other relationship under which control or influence might be exercised over the licensee;
- (d) an order preventing or regulating the exercise of power or influence acquired as a result of the transaction;
- (e) an order (which may include an order for restitution) dealing with any consequential or ancillary issues.

(5) The Supreme Court may, if satisfied on application by the Authority that there is good reason to do so, register an order of the Authority in the Court and, on registration, the order may be enforced as a judgment of the Court.

Surrender of licence

19. (1) The licensee may, with the approval of the Authority, surrender the licence.

(2) The surrender of the licence does not affect liabilities incurred by the licensee before the surrender takes effect.

DIVISION 4—APPROVAL OF DIRECTORS AND EXECUTIVE OFFICERS

Approval of directors and executive officers

20. (1) The licensee must ensure that each person who becomes a director or executive officer of the licensee has been approved by the Authority.

Maximum penalty: \$20 000.

(2) The licensee must, within 14 days after a person ceases to be a director or executive officer of the licensee, give the Authority written notice identifying the person and stating the date when, and the reason why, the person ceased to be a director or executive officer of the licensee.

Maximum penalty: \$5 000.

(3) This section applies in relation to executive officers of a licensee subject to any limitation for the time being specified by the Authority by written notice to the licensee.

(4) This section does not apply in relation to directors of TABCO while it is a State-owned company.

(5) This section does not apply in respect of an administrator, controller or liquidator of the licensee who has assumed control over the licensed business or a person acting on the authority of such a person.

DIVISION 5—APPLICATIONS AND CRITERIA FOR DETERMINATION OF APPLICATIONS

Applications

21. (1) The following applications may be made to the Authority:

- (a) an application for the grant, renewal or transfer of the licence;
- (b) an application for the Authority's approval or ratification of a transaction to which Division 3 applies (other than the transfer of the licence);
- (c) an application for the Authority's approval of a transaction to which Division 3 would apply if the transaction were entered into;
- (d) an application for the Authority's approval of a person to become a director or executive officer of the licensee.

(2) An application—

- (a) must be in the form required by the Authority; and
- (b) must be supported by the information required by the Authority verified, if the Authority so requires, by statutory declaration; and
- (c) must be made as follows:
 - (i) in the case of an application for the Authority's approval of a transfer of the licence—the application must be made jointly by the proposed transferor and transferee;

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- (ii) in the case of an application for the Authority's approval or ratification of a transaction to which Division 3 applies or would apply if the transaction were entered into (other than the transfer of the licence)—the application must be made by the licensee or one or more of the parties to the transaction;
- (iii) in the case of an application for the Authority's approval of a person to become a director or executive officer of the licensee—the application must be made by the licensee.

(3) If a change of circumstances occurs after an application is made but before it is determined, the applicant must immediately give the Authority full details of the change.

Maximum penalty: \$10 000.

(4) An application may be withdrawn by the applicant, or any of the applicants, before the application is determined.

Determination of applications

22. (1) The Authority must not recommend grant or renewal of the licence unless satisfied that the applicant is a suitable person to carry on the licensed business.

(2) The Authority must not recommend transfer of the licence unless satisfied that the proposed transferee is a suitable person to carry on the licensed business.

(3) If—

- (a) a transaction to which Division 3 applies results or might result in the acquisition by a person other than the licensee of power to conduct, or to control or exercise significant influence over the conduct of, the licensed business; or
- (b) a transaction to which Division 3 would apply if the transaction were entered into would or might result in the acquisition by a person other than the licensee of power to conduct, or to control or exercise significant influence over the conduct of, the licensed business,

the Authority must not approve or ratify the transaction unless satisfied that the person is or would be a suitable person to exercise the relevant power.

(4) The Authority must not approve a person to become a director or executive officer of the licensee unless satisfied that the person is a suitable person to become a director or executive officer of the licensee.

(5) In assessing the suitability of a person, the Authority may have regard to—

- (a) the corporate structure of the person; and
- (b) the person's financial background and resources; and
- (c) the person's reputation; and
- (d) the character, reputation, and financial background of the person's close associates; and
- (e) any representations made by the Minister; and
- (f) any other matters the Authority thinks fit.

(6) If the Authority approves a transaction to which Division 3 would apply if the transaction were entered into, the approval has effect for the purposes of Division 3 in relation to the transaction when it is entered into.

DIVISION 6—INVESTIGATIONS BY AUTHORITY

Investigations

23. (1) The Authority must carry out the investigations it considers necessary to enable it to make an appropriate recommendation or decision on an application under this Part.

(2) The Authority must keep under review the continued suitability of the licensee and the licensee's close associates, and carry out the investigations it considers necessary for that purpose.

(3) The Authority may obtain from the Commissioner of Police such reports on persons as it considers necessary for the purposes of investigations.

Investigative powers

24. (1) The Authority may, by written notice—

(a) require any person to provide to the best of the person's knowledge and belief, information, verified by statutory declaration, on matters relevant to an investigation that are specified in the notice; or

(b) require any person to appear before the Authority for examination on matters relevant to an investigation; or

(c) require any person to produce to the Authority, within a period stated in the notice, documents or other material relevant to an investigation.

(2) The Authority may also require any person whose suitability to be concerned in or associated with the licensed business is under investigation to submit to the taking of photographs, finger prints and palm prints.

(3) A person is guilty of an offence if the person—

(a) fails to comply with a requirement made by the Authority under this section; or

(b) having appeared for examination before the Authority, refuses or fails to take an oath, or to answer a question to the best of the person's knowledge and belief, when required to do so by the Authority.

Maximum penalty: \$10 000.

(4) The powers conferred by this section are in addition to those conferred by the *Independent Gambling Authority Act 1995*.

Costs of investigation relating to applications

25. (1) Where the Authority carries out an investigation in connection with an application under this Part, the Authority must require the applicant to meet the cost of the investigation.

(2) The Authority may require the applicant to make specified payments towards the costs of the investigation before the investigation begins and during the course of the investigation.

(3) If a payment is not made as required by the Authority, the Authority may discontinue the investigation.

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(4) At the end of the investigation, the Authority must certify the cost of the investigation and any unpaid balance of that cost may be recovered from the applicant as a debt due to the State.

(5) In proceedings for recovery of the cost (or the balance of the cost) of an investigation, the Authority's certificate is to be regarded as conclusive evidence of that cost.

(6) This section does not apply in relation to an application for approval of a person to become a director or executive officer of the licensee.

Results of investigation

26. Where the Authority carries out an investigation in connection with an application under this Part, the Authority must notify the applicant and the Minister of the results of its investigation.

DIVISION 7—ACCOUNTS AND AUDIT

Accounts and audit

27. (1) The licensee must keep proper financial accounts in relation to the operation of the licensed business.

Maximum penalty: \$50 000.

(2) The accounts—

(a) must be kept in a form approved by the Authority; and

(b) must be segregated from accounts relevant to other business carried on by the licensee.

(3) The licensee must have the accounts periodically audited as required under the conditions of the licence by a registered company auditor.

Licensee to supply authority with copy of audited accounts

28. (1) As soon as practicable after the audit of accounts that the licensee is required to keep under this Division is completed, the licensee must give the Authority a copy of the audited accounts.

Maximum penalty: \$10 000.

(2) As soon as practicable after the audit of accounts that the licensee is required to keep under the *Corporations Law* is completed, the licensee must give the Authority a copy of the audited accounts.

Maximum penalty: \$10 000.

Duty of auditor

29. (1) The auditor of accounts that the licensee is required to keep either under this Division or the *Corporations Law* must—

(a) notify the Authority of any suspected irregularity in the accounts or in the licensee's financial affairs; and

(b) must, on the written request of the Authority, provide the Authority with information specified in the request (in a manner and form specified in the request) about the accounts or the licensee's financial affairs.

Maximum penalty: \$10 000.

(2) A communication under subsection (1) is absolutely privileged.

(3) The Authority must, subject to subsection (4), keep information obtained under this section confidential.

(4) The Authority may divulge information obtained under this section to the Minister or the Commissioner or as otherwise authorised by law.

Non-application of Division

30. This Division does not apply in relation to TABCO while it is a State-owned company.

DIVISION 8—PAYMENT OF DUTY

Liability to duty

31. (1) The licensee must pay duty (and interest and penalties for late payment or non-payment of duty) in accordance with the duty agreement.

(2) The Treasurer must pay duty (and interest and penalties) received from the licensee into the Consolidated Account.

(3) The duty (and interest and penalties) may be recovered as a debt due to the State.

Evasion of duty

32. (1) The licensee must not attempt to evade the payment of duty.

Maximum penalty: \$100 000.

(2) If the licensee contravenes subsection (1), the Treasurer may, within 4 years after the liability for duty arose, make an estimate of the duty that should have been paid and make a reassessment of duty on the basis of the estimate.

(3) Duty may be recovered on the basis of the reassessment as a debt due to the State.

DIVISION 9—GENERAL POWER OF DIRECTION

Directions to licensee

33. (1) The Authority may, by written notice, give directions to the licensee about the management, supervision and control of any aspect of the operation of the licensed business.

(2) The licensee must ensure that all directions given under this section are diligently observed and carried out.

Maximum penalty: \$100 000.

(3) Before the Authority gives directions under this section, the Authority must, unless the Authority considers it contrary to the public interest to do so—

(a) give written notice to the licensee of the proposed directions; and

(b) consider any representations made by the licensee about the proposed directions within 14 days after the notice is given or a longer period allowed in the notice.

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**PART 3
LICENSING OF OTHER BETTING OPERATIONS**

DIVISION 1—LICENCES

Classes of licences

34. (1) The Authority may grant the following classes of licences:

- (a) a licence (an **on-course totalisator betting licence**) authorising a racing club to conduct on-course totalisator betting in conjunction with a race meeting held by the club, or at other times authorised by the Authority, on races held by the club or another licensed racing club (excluding races of a prescribed kind) and on other races that are approved contingencies;
- (b) a licence (a **bookmaker's licence**) authorising a person to act as a bookmaker conducting fixed-odds betting on races held by licensed racing clubs (excluding races of a prescribed kind) and approved contingencies;
- (c) a licence (a **clerk's licence**) authorising a person to act as the clerk of a licensed bookmaker;
- (d) a licence (a **betting shop licence**) authorising a licensed bookmaker to conduct fixed-odds betting on races held by licensed racing clubs (excluding races of a prescribed kind) and approved contingencies at specified premises situated within the City of Port Pirie.

(2) A bookmaker's licence or clerk's licence must not be granted to a body corporate or a child.

(3) The Minister may give the Authority binding directions about authorisations as to the conduct of on-course totalisator betting at times other than in conjunction with a race meeting.

Term of licence

35. (1) A licence granted under this Part will, subject to this Act, have effect for a period specified in the licence and may be renewed from time to time in accordance with the regulations.

(2) The Minister may give the Authority binding directions about the term of an on-course totalisator betting licence.

Conditions of licence

36. (1) The Authority may, on granting or renewing a licence under this Part, attach conditions to the licence.

(2) The Authority may, by written notice to the person granted a licence under this Part, vary or revoke a condition attached to the licence or attach a further condition.

(3) An on-course totalisator betting licence must have attached to it conditions fixing the maximum proportion of money invested in totalisator betting that may be retained by the licensee.

(4) The Minister may give the Authority binding directions about conditions to be attached to a licence under subsection (3).

Application for grant or renewal, or variation of condition, of licence

37. (1) An application for the grant or renewal, or variation of a condition, of a licence under this Part—

- (a) must be made to the Authority in the form required by the Authority; and
- (b) must be supported by the information required by the Authority verified, if the Authority so requires, by statutory declaration; and
- (c) must be accompanied by the fee fixed by regulation.

(2) However, the Authority cannot require an applicant for renewal of a bookmaker's, clerk's or betting shop licence, or a member of the applicant's family, to provide or to submit to the taking of finger prints or palm prints or to provide or consent to the release of his or her criminal record (if any) if the applicant is a person to whom subclause (1), (2) or (3), as the case may be, of Schedule 1 clause 3 applies.

Determination of applications

38. (1) The Authority must not grant or renew a licence under this Part unless satisfied—

- (a) that the applicant is a suitable person to hold the licence; and
- (b) in the case of an on-course totalisator betting licence—as to the adequacy of the standards of probity that will apply to races held by the racing club.

(2) In assessing the suitability of a person, the Authority may have regard to—

- (a) the person's financial background and resources; and
- (b) the person's reputation; and
- (c) the character, reputation, and financial background of the person's close associates; and
- (d) any representations made by the Minister; and
- (e) any other matters the Authority thinks fit.

DIVISION 2—LIABILITY TO PAY DUTY

Liability to duty

39. (1) A licensed racing club or licensed bookmaker must pay duty (and interest and penalties for late payment or non-payment of duty) to the Treasurer in accordance with the regulations.

(2) The regulations may require licensed racing clubs or licensed bookmakers to pay unclaimed winnings or totalisator fractions (or both) to the Treasurer and, if they do so require, a reference in this Division to duty is to be taken to include a reference to the amounts so required to be paid.

(3) The regulations may—

- (a) fix the amount, or basis of calculation, of duty; and
- (b) provide for payments of duty; and

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- (c) deal with interest and penalties to be paid for a late payment or non-payment of duty; and
- (d) require the lodging of periodic returns; and
- (e) make provision for payments to licensed racing clubs or licensed bookmakers in relation to goods and services taxes under Commonwealth law and for the appropriation from the Consolidated Account of money required for the purpose.

(4) The duty (and interest and penalties) may be recovered as a debt due to the State.

Evasion of duty

40. (1) A licensed racing club or licensed bookmaker must not attempt to evade the payment of duty.

Maximum penalty: \$20 000.

(2) If a licensee contravenes subsection (1), the Treasurer may, within four years after the liability for duty arose, make an estimate of the duty that should have been paid and make a reassessment of duty on the basis of the estimate.

(3) Duty may be recovered on the basis of the reassessment as a debt due to the State.

PART 4
REGULATION OF BETTING OPERATIONS

DIVISION 1—BETTING OPERATIONS OTHER THAN BOOKMAKING

Approval of rules, systems, procedures and equipment

41. (1) It is a condition of the major betting operations licence or an on-course totalisator betting licence that the following must be approved by the Commissioner:

- (a) the rules governing the betting operations conducted under the licence; and
- (b) systems and procedures for monitoring and enforcing compliance with those rules and for reporting and dealing with any non-compliance; and
- (c) other systems and procedures, or equipment of a kind, that the Authority determines from time to time to be subject to this section.

(2) Without limiting the matters dealt with by rules, the rules must, for a form of betting in which the actual amounts payable on winning bets are not pre-determined, clearly set out—

- (a) the method of calculation of winnings; and
- (b) the proportion of money invested that will be retained by the licensee.

(3) It is a condition of the major betting operations licence or an on-course totalisator betting licence that the licensee must ensure—

- (a) that the rules are published in a manner approved by the Commissioner; and
- (b) that the operations under the licence conform with the rules and the systems and procedures approved under this section; and
- (c) that equipment of a kind that must be approved by the Commissioner is not installed or used unless so approved or contrary to any instructions of the Commissioner.

(4) Before the Authority makes a determination for the purposes of subsection (1)(c), the Authority must—

- (a) give written notice to the licensee concerned of the proposed determination; and
- (b) consider any representations made by the licensee about the proposed determination within 14 days after the notice is given or a longer period allowed in the notice.

Location of off-course totalisator offices, branches and agencies

42. (1) It is a condition of the major betting operations licence that the licensee must not establish an office, branch or agency at which the public may attend to make bets with the licensee without obtaining the Authority's approval of the location of the office, branch or agency.

(2) The Minister may give the Authority binding directions preventing or restricting the approval of the location of offices, branches or agencies.

Prevention of betting by children

43. It is a condition of the major betting operations licence or an on-course totalisator betting licence—

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- (a) that the licensee must not accept or offer to accept a bet from a child; and
- (b) that the licensee must have systems and procedures approved by the Commissioner designed to prevent bets from being made by children in the course of the licensee's betting operations; and
- (c) that the licensee must ensure that the operations under the licence conform with the systems and procedures approved under this section.

Prohibition of lending or extension of credit

44. It is a condition of the major betting operations licence or an on-course totalisator betting licence that the licensee must not—

- (a) accept a bet unless the licensee has received the amount of the bet; or
- (b) in connection with the making of a bet, lend money or anything that might be converted into money or extend any other form of credit.

Cash facilities not to be in certain areas staffed and managed by major betting operations licensee

45. It is a condition of the major betting operations licence that the licensee must not provide, or allow another person to provide, a cash facility within a part of premises that is staffed and managed by the licensee and at which the public may attend to make bets.

Player return information¹

46. (1) *It is a condition of the major betting operations licence or an on-course totalisator betting licence that the licensee must, in accordance with determinations made from time to time by the Commissioner, provide information relating to player returns at places at which the public may attend to make bets with the licensee, on betting tickets issued by the licensee and otherwise as required by the Commissioner.*

(2) *Before the Commissioner makes a determination for the purposes of subsection (1), the Commissioner must—*

- (a) *give written notice to the licensee concerned of the proposed determination; and*
- (b) *consider any representations made by the licensee about the proposed determination within 14 days after the notice is given or a longer period allowed in the notice.*

(3) *In this section—*

"player return" means the money that will be returned to persons making bets with the licensee in a form of betting in which the actual amounts payable on winning bets are not pre-determined.

Systems and procedures for dispute resolution

47. It is a condition of the major betting operations licence or an on-course totalisator betting licence—

- (a) that the licensee must have systems and procedures approved by the Commissioner for the resolution of disputes about bets or winnings arising in the course of the licensee's betting operations; and

¹ Section 46 had not been brought into operation at the date of this reprint.

- (b) that the licensee must ensure that the operations under the licence conform with the systems and procedures approved under this section.

Advertising code of practice¹

48. *It is a condition of the major betting operations licence or an on-course totalisator betting licence—*

- (a) *that the licensee must adopt a code of practice on advertising approved by the Authority; and*
- (b) *that the licensee must ensure that advertising by the licensee conforms with the code of practice approved under this section.*

Responsible gambling code of practice

49. *It is a condition of the major betting operations licence or an on-course totalisator betting licence—*

- (a) *that the licensee must adopt a code of practice approved by the Authority dealing with—*
- (i) *the display of signs, and the provision of information, at offices, branches and agencies relating to responsible gambling and the availability of services to address problems associated with gambling; and*
- (ii) *the provision of training to staff relating to responsible gambling and the services available to address problems associated with gambling; and*
- (b) *that the licensee must ensure that operations under the licence conform with the code of practice approved under this section.*

Major betting operations licensee may bar excessive gamblers

50. (1) If the holder of the major betting operations licence is satisfied that the welfare of a person, or the welfare of a person's dependants, is seriously at risk as a result of excessive gambling, the licensee may, by written order served on the person, do one or more of the following:

- (a) bar the person from entering or remaining in a specified office or branch staffed and managed by the licensee;
- (b) bar the person from making bets at a specified agency of the licensee;
- (c) bar the person from making bets by telephone or other electronic means not requiring attendance at an office, branch or agency of the licensee.

(2) The holder of the major betting operations licence may, by further written order served on the person, vary or revoke an order under subsection (1).

(3) A person who contravenes an order under this section is guilty of an offence.

Maximum penalty: \$2 500.

¹ Ss. 48 and 49 had not been brought into operation at the date of this reprint.

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(4) If an authorised person suspects on reasonable grounds that a person who is in, or who is entering or about to enter, an office or branch is barred from that office or branch by order under this section, the authorised person may require the person to leave the office or branch.

(5) If a person refuses or fails to comply with a requirement under subsection (4), an authorised person may remove the person from the office or branch, using only such force as is reasonably necessary for the purpose.

(6) The Commissioner may, on application by a person who is aggrieved by a decision of the licensee to issue an order under this section, review that decision.

(7) The Commissioner may confirm, vary or revoke the decision and the decision of the Commissioner is not subject to review by the Authority or appeal in any court.

(8) A decision of the licensee or an authorised person to exercise or not to exercise powers under this section, or a failure of the licensee or an authorised person to exercise such powers, does not give rise to any liability of the licensee or authorised person to pay damages or compensation to any person.

(9) In this section—

"authorised person" means—

- (a) the holder of the major betting operations licence; or
- (b) an employee of the holder of the major betting operations licence; or
- (c) an inspector; or
- (d) a police officer.

Alteration of approved rules, systems, procedures, equipment or code provisions

51. (1) The relevant authority may, by written notice to a licensee, require approved rules, systems, procedures, equipment or code of practice provisions to be altered as set out in the notice.

(2) Before the relevant authority makes a requirement under subsection (1), the relevant authority must, unless the relevant authority considers it contrary to the public interest to do so—

- (a) give written notice to the licensee concerned of the proposed requirement; and
- (b) consider any representations made by the licensee about the proposed requirement within 14 days after the notice is given or a longer period allowed in the notice.

(3) It is a condition of the major betting operations licence or an on-course totalisator betting licence that the licensee must ensure that all alterations required to be made under subsection (1) are made in accordance with the notice given under that subsection.

(4) In this section—

"relevant authority" means—

- (a) in relation to rules, systems, procedures or equipment—the Commissioner;
- (b) in relation to code of practice provisions—the Authority.

DIVISION 2—BOOKMAKING OPERATIONS

Restriction on use of licensed betting shop

52. It is a condition of a betting shop licence that the licensee must not—

- (a) carry on business as a bookmaker in the licensed betting shop; or
- (b) keep the licensed betting shop open to the public,

at any time on a day on which horse races are to be held at a racecourse within 15 kilometres of the licensed betting shop.

Cash facilities at licensed betting shop

53. It is a condition of a betting shop licence that the licensee must not provide, or allow another person to provide, a cash facility within the licensed betting shop.

Licensed bookmakers required to hold permits

54. It is a condition of a bookmaker's licence that the licensee must not accept bets without being authorised to do so by a permit granted by the Commissioner under this Division.

Granting of permits

55. (1) Subject to this section, the Commissioner may grant a permit authorising an individual licensed bookmaker or a group of licensed bookmakers to accept bets made on a specified day and at a specified place.

(2) The Commissioner must not grant permits to accept bets on a day and within a racecourse unless—

- (a) a licensed racing club is authorised to conduct on-course totalisator betting within that racecourse on that day; and
- (b) the racing club has been consulted by the Commissioner about the granting of the permits.

(3) The Commissioner must not grant permits in respect of betting on a day and at a place other than a racecourse or licensed betting shop unless the person or body that occupies or has control of that place on that day has been consulted by the Commissioner about the granting of the permits.

(4) The Minister may give the Commissioner binding directions about the granting of permits in respect of betting referred to in subsection (3).

(5) The Commissioner must not grant a permit to a group of bookmakers unless—

- (a) the bookmakers have entered into an agreement with each other that—
 - (i) provides for sharing the bets accepted under the permit; and
 - (ii) provides for the shares in which the members of the group will be liable for amounts payable under Part 3 in respect of those bets; and
 - (iii) provides for the shares in which the members of the group will be liable for the amount won on those bets; and

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- (iv) authorises a person (whether a member of the group or some other person approved by the Commissioner) to accept bets on behalf of the group; and
 - (v) includes such other terms as the Commissioner requires; and
- (b) the Commissioner has approved the agreement.

(6) Each member of a group of bookmakers to whom the Commissioner has granted a permit is liable for amounts payable under Part 3 in respect of the bets accepted under the permit but the aggregate of amounts recovered from two or more members of the group must not exceed the total amount payable.

Permit authorising telephone bets etc.

56. A permit may, if it so specifies, authorise a bookmaker to accept bets made by telephone or other electronic means.

Conditions of permits

57. (1) The Commissioner may, on granting a permit, attach conditions to the permit.

(2) The Commissioner may, by written notice to the holder of a permit, vary or revoke a condition attached to the permit or attach a further condition.

Revocation of permit

58. The Commissioner may, by written notice to the holder of the permit, revoke a permit under this Division.

* * * * *

Prevention of betting with children by bookmaker

60. (1) It is a condition of a bookmaker's licence—

- (a) that the licensee must not accept or offer to accept a bet from a child; and
- (b) that the licensee must have systems and procedures approved by the Commissioner designed to prevent bets from being made by children in the course of the licensee's betting operations; and
- (c) that the licensee must ensure that the operations under the licence conform with the systems and procedures approved under this section.

(2) The Commissioner may, by written notice to a licensed bookmaker, require approved systems and procedures to be altered as set out in the notice.

(3) Before the Commissioner makes a requirement under subsection (2), the Commissioner must, unless the Commissioner considers it contrary to the public interest to do so—

- (a) give written notice to the licensee concerned of the proposed requirement; and
- (b) consider any representations made by the licensee about the proposed requirement within 14 days after the notice is given or a longer period allowed in the notice.

(4) It is a condition of a bookmaker's licence that the licensee must ensure that all alterations required to be made under subsection (2) are made in accordance with the notice given under that subsection.

Prohibition of certain information as to racing or betting

61. (1) Subject to this section, a person must not communicate for fee or reward to any other person information or advice as to the probable result of a race or approved contingency in relation to which a bookmaker is authorised by permit to accept bets.

Maximum penalty: \$20 000.

(2) Subsection (1) does not apply to information or advice published in a newspaper or broadcast by radio or television.

(3) Except with the approval of the Commissioner, a person who is, or was, within a racecourse or other place during a period when bookmakers are, or were, accepting bets on races or approved contingencies must not, before the end of that period, communicate (whether or not for fee or reward) to a person who is outside the racecourse or other place information or advice as to the betting with bookmakers at that racecourse or place.

Maximum penalty: \$20 000.

(4) The Commissioner may, on granting an approval for the purposes of subsection (3), attach conditions to the approval.

(5) The Commissioner may, by written notice to the holder of an approval under this section—

(a) vary or revoke a condition attached to the approval or attach a further condition;

(b) revoke the approval.

(6) In this section—

"**communicate**" means to communicate by any means either directly or indirectly, and includes to cause to be communicated.

Rules relating to bookmakers' operations

62. (1) The Authority may make rules—

(a) regulating the betting operations of licensed bookmakers; and

(b) requiring an applicant for a bookmaker's licence to give security for compliance with this Act and any conditions attached to the licence; and

(c) providing for the keeping of records by licensed bookmakers, the inspection of such records and the furnishing of returns by licensed bookmakers; and

(d) prohibiting or restricting advertising by licensed bookmakers; and

(e) dealing with any other matters contemplated by this Division or necessary or expedient for the purposes of this Division; and

(f) prescribing penalties not exceeding \$5 000 for breach of a rule.

(2) The rules may provide that a matter or thing in respect of which rules may be made is to be determined according to the discretion of the Authority or the Commissioner.

**PART 5
ENFORCEMENT**

DIVISION 1—COMMISSIONER'S SUPERVISORY RESPONSIBILITY

Responsibility of the Commissioner

63. The Commissioner is responsible to the Authority to ensure that the operations of each licensed business are subject to constant scrutiny.

DIVISION 2—POWER TO OBTAIN INFORMATION

Power to obtain information

64. It is a condition of a licence that the licensee must, on the written request of the Authority or the Commissioner, provide information that the Authority or the Commissioner requires for the administration or enforcement of this Act.

DIVISION 3—INSPECTORS AND POWERS OF AUTHORISED OFFICERS

Appointment of inspectors

65. (1) There will be such number of inspectors as are necessary for the proper administration of this Act.

(2) An inspector is a Public Service employee.

(3) The Commissioner must provide each inspector with a certificate of identity and an inspector must, at the request of a person in relation to whom the inspector has exercised, or intends to exercise, powers under this Act, produce that certificate.

Power to enter and inspect

66. (1) Subject to this section, an authorised officer may—

- (a) enter or, where necessary, break into any place, using only such force as is reasonably necessary for the purpose;
- (b) inspect or search the place or anything in the place;
- (c) require any person in the place to—
 - (i) produce any equipment or other items, or any books, papers or documents, that are in the person's custody or control;
 - (ii) answer any questions put by the authorised officer;
- (d) inspect any books, papers or documents produced to him or her and retain them for so long as is reasonably necessary for the purpose of copying or taking extracts from any of them;
- (e) if the authorised officer suspects on reasonable grounds that an offence has been committed, seize and retain anything that he or she believes affords evidence of the offence;
- (f) give such directions as are reasonably necessary for, or as are incidental to, the effective exercise of the officer's powers under this section.

(2) An authorised officer may only exercise powers under subsection (1) in relation to a place—

- (a) at any time when operations of a kind authorised under this Act are being conducted in the place; or
- (b) at any time when there are reasonable grounds to suspect that an offence has been, is being or is about to be committed in the place or that evidence of such an offence is likely to be found in the place; or
- (c) at any reasonable time when the exercise of the powers is required for the purposes of the administration or enforcement of this Act.

(3) An authorised officer may only exercise powers under subsection (1)(a) in relation to a place in which there are not any operations of a kind authorised under this Act being conducted on the authority of a warrant issued by a magistrate.

(4) A magistrate cannot issue a warrant under subsection (3) unless satisfied, on information given on oath—

- (a) that there are reasonable grounds for suspecting that an offence has been, is being or is about to be committed; and
- (b) that the warrant is reasonably required in the circumstances.

(5) An authorised officer may, in exercising powers under this section, be accompanied by such assistants as are reasonably necessary for the purpose.

(6) Subject to subsection (7), a person who—

- (a) without reasonable excuse, hinders or obstructs an authorised officer in the exercise of powers under this section; or
- (b) fails to answer a question put by an authorised officer to the best of his or her knowledge, information or belief; or
- (c) fails to comply with any other lawful requirement or direction of an authorised officer; or
- (d) uses abusive, threatening or insulting language to an authorised officer or a person assisting an authorised officer; or
- (e) falsely represents, by word or conduct, that he or she is an authorised officer,

is guilty of an offence.

Maximum penalty: \$20 000.

(7) A person is not required to answer a question, or to produce books, papers or documents, under this section if—

- (a) the answer to the question or the contents of the books, papers or documents would tend to incriminate the person of an offence; or

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(b) answering the question or producing the books, papers or documents would result in a breach of legal professional privilege.

(8) In this section—

"**offence**" means an offence against this Act or any other offence arising out of or committed in connection with the conduct of betting operations of a kind authorised by this Act.

PART 6
POWER TO DEAL WITH DEFAULT OR BUSINESS FAILURE

DIVISION 1—STATUTORY DEFAULT

Statutory default

67. (1) A **statutory default** occurs if—

- (a) a licensee contravenes or fails to comply with a provision of this Act or a condition of the licence; or
- (b) an event occurs, or circumstances come to light, that show a licensee or a close associate of a licensee to be an unsuitable person; or
- (c) operations under a licence are improperly conducted or discontinued; or
- (d) a licensee becomes liable to disciplinary action under this Act on some other basis.

(2) For the purposes of subsection (1), operations under an on-course totalisator betting licence include the races held by the racing club that holds the licence.

Effect of criminal proceedings

68. (1) The Authority may exercise its powers under this Part in relation to a statutory default whether or not criminal proceedings have been, or are to be, taken for the default and even though a penalty may have been already imposed for the default.

(2) However—

- (a) if the licensee expiates a statutory default under this Part, no further action may be taken for that default; and
- (b) the Authority must, in imposing a fine, take into account any fine that has already been imposed in criminal proceedings.

Compliance notice

69. (1) If a statutory default occurs, the Authority may give written notice to the licensee (a **compliance notice**) specifying the default and requiring the licensee to take specified action, within a period specified in the notice, to remedy the default or to ensure against repetition of the default.

(2) If the licensee fails to take the specified action within the time allowed in the notice, the licensee is guilty of an offence.

Maximum penalty:

In the case of the holder of the major betting operations licence—\$100 000.

In any other case—\$20 000.

Expiation notice

70. (1) If a statutory default occurs, the Authority may give written notice to the licensee (an **expiation notice**) specifying the default and informing the licensee that disciplinary action may be avoided by payment of a specified sum not exceeding—

- (a) in the case of the holder of the major betting operations licence—\$10 000;
- (b) in any other case—\$1 000,

within a period specified in the notice.

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(2) If the specified amount is paid in accordance with the notice, no disciplinary action may be taken under this Act for the default nor may criminal proceedings be taken for the default.

Injunctive remedies

71. (1) If a statutory default occurs or there are reasonable grounds to suspect that a statutory default may occur or be attempted, the Supreme Court may, on application by the Minister or the Authority, grant an injunction to prevent the statutory default or to prevent recurrence of the statutory default.

(2) The injunction may be granted on terms the Court considers appropriate.

(3) An injunction may be granted under this section whether or not—

(a) there has been some previous statutory default of the same or a similar nature; or

(b) there is imminent danger of substantial damage to any person.

(4) No undertaking as to damages can be required of the Minister or the Authority in proceedings under this section.

Disciplinary action

72. (1) If a statutory default occurs, the Authority may give written notice to the licensee—

(a) specifying the default; and

(b) requiring the licensee to show cause, within a period specified in the notice (which must be at least 14 days), why disciplinary action should not be taken against the licensee.

(2) The Authority must allow the licensee a reasonable opportunity to make submissions orally or in writing to the Authority.

(3) After considering the submissions (if any) made by the licensee, the Authority may, by order, take disciplinary action in one or more of the following ways:

(a) the Authority may censure the licensee;

(b) the Authority may impose a fine on the licensee not exceeding—

(i) in the case of the holder of the major betting operations licence—\$100 000;

(ii) in any other case—\$20 000;

(c) the Authority may vary the conditions of the licence (irrespective, in the case of the major betting operations licence, of any provision of the approved licensing agreement excluding or limiting the power of variation of the conditions of the licence);

(d) the Authority may give written directions to the licensee as to the winding up of betting operations under the licence;

(e) the Authority may suspend the licence for a specified or unlimited period;

(f) the Authority may cancel the licence.

(4) Disciplinary action takes effect on the date of service of the order on the licensee or on a later date specified in the order.

(5) If the Authority suspends the licence, the Authority may, at any time, terminate the suspension.

(6) A fine imposed under this section may be recovered as a debt due to the State.

(7) A person who fails to comply with a direction given under this section is guilty of an offence.

Maximum penalty:

In the case of the holder of the major betting operations licence—\$100 000.

In any other case—\$20 000.

Alternative remedy

73. The Authority may, instead of taking disciplinary action, issue a compliance notice.

DIVISION 2—OFFICIAL MANAGEMENT

Power to appoint manager

74. (1) If—

(a) a licence is suspended, cancelled or surrendered or expires and is not renewed; or

(b) a licensee otherwise discontinues operations under a licence,

the Minister may, on the recommendation of the Authority, appoint an official manager of the business conducted under the licence (or former licence).

(2) If a licensee—

(a) becomes insolvent within the meaning of Part 7.10 of the *Corporations Law*; or

(b) goes into liquidation,

the Minister may, on the recommendation of the Authority, appoint an official manager of the business conducted under the licence (or former licence).

(3) An appointment under subsection (1) or (2) may be terminated at any time by the Minister.

Powers of manager

75. (1) The official manager—

(a) is to assume control of the business conducted under the licence (or former licence); and

(b) is entitled to possession and control of property of the licensee (or former licensee) used for the purposes of the business conducted under the licence; and

(c) is, while the appointment continues in force, taken to be the holder of a licence of the same kind on conditions determined by the Authority.

(2) Any proceeds of the business while under official management are to be applied as follows:

(a) firstly, the proceeds are to be applied towards the costs of official management (including the official manager's remuneration); and

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(b) secondly, a reasonable rental for the licensee's (or former licensee's) property is to be paid out of the proceeds to the licensee (or former licensee) while the property remains in the official manager's possession; and

(c) thirdly, any remaining balance is to be paid into the Consolidated Account.

(3) However, the approved licensing agreement may operate to exclude or modify the provisions of subsection (2) in relation to the major betting operations licence.

(4) The regulations may confer powers and impose duties on official managers and regulate official management in other ways.

DIVISION 3—ADMINISTRATORS, CONTROLLERS AND LIQUIDATORS

Administrators, controllers and liquidators

76. (1) If an administrator, controller or liquidator of a licensee assumes control over the business conducted under a licence for a period (the **period of administration**), that person—

(a) stands in the position of the licensee for the period of administration; and

(b) is liable for the duty and other liabilities to the Crown accruing during the period of administration; and

(c) is subject to this Act, and liable to direction and control under this Act, in the same way as if the person were the licensee; and

(d) if charged with an offence against this Act, is entitled to a defence on proof that the offence was not committed intentionally and did not arise from the defendant's failure to take reasonable care to avoid the commission of the offence.

(2) For the purposes of subsection (1), an administrator, controller or liquidator will only be regarded as assuming control of the business if the administrator, controller or liquidator assumes control of all or substantially all of the business assets associated with the operation of the business conducted under the licence.

**PART 7
REVIEW AND APPEAL**

Review of Commissioner's decision

77. (1) Subject to this Act, a person aggrieved by a decision of the Commissioner under this Act (including a decision made by the Commissioner as a delegate of the Authority) may, within 30 days after receiving notice of the decision, apply to the Authority for a review of the decision.

(2) A **decision** includes (for example) refusal to issue a permit.

(3) On an application under this section, the Authority may confirm, vary, revoke or reverse the decision under review.

Finality of Authority's decisions

78. (1) A decision of the Authority under this Act is final and without appeal subject however to the following qualifications:

- (a) an appeal lies to the Supreme Court against a decision to take disciplinary action against a licensee; and
- (b) an appeal lies to the Supreme Court against an order made under section 18(4); and
- (c) an appeal lies, by leave of the Supreme Court, against a decision of the Authority on a question of law.

(2) The Supreme Court may, on an appeal—

- (a) affirm the decision appealed against;
- (b) rescind the decision and substitute a decision that the Court considers appropriate;
- (c) remit matters to the Authority for consideration or further consideration in accordance with any directions or recommendations of the Court;
- (d) make incidental and ancillary orders.

(3) An appeal must be commenced, or the application for leave to appeal made, within one month after the decision to which the appeal relates or a longer period allowed by the Supreme Court.

Finality of Governor's decisions

79. A decision by the Governor under this Act is not subject to review or appeal in any court.

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**PART 8
MISCELLANEOUS**

Lawfulness of betting operations conducted in accordance with this Act

80. Betting operations conducted in accordance with this Act (including operations of a person of whom the holder of the major betting operations licence is an agent under a transaction approved by the Authority under this Act) are lawful and do not, in themselves, constitute a public or private nuisance.

Further trade practices authorisations

81. (1) Entering into, giving effect to, or enforcing—

- (a) the Government Agreement; or
- (b) an agreement substantially in the form of the draft agreement entitled *Racing Distribution Agreement* attached to the Government Agreement; or
- (c) a prescribed agreement, arrangement or instrument,

is, subject to conditions and limitations prescribed by regulation, authorised for the purposes of section 51 of the *Trade Practices Act 1974* of the Commonwealth, as in force from time to time, and the *Competition Code of South Australia*.

(2) In this section—

"**giving effect**" to an agreement, or provisions of an agreement, arrangement or instrument, includes complying with an obligation or exercising a right or power under the agreement or provisions;

"**Government Agreement**" means the agreement of that name entered into between the racing controlling authorities and the State in October 2000;

"**prescribed agreement, arrangement or instrument**" means an agreement, arrangement or instrument of any of the following kinds prescribed by regulation:

- (a) an Intercode Agreement within the meaning of the Government Agreement;
- (b) an Intracode Agreement within the meaning of the Government Agreement;
- (c) the constitution of a racing controlling authority;
- (d) an agreement or arrangement to which any combination of the following are parties:
 - (i) a body for the time being nominated to the Minister by the racing controlling authorities as a body representative of the racing controlling authorities;
 - (ii) racing controlling authorities;
 - (iii) racing clubs;
 - (iv) the holder of the major betting operations licence;
 - (v) the State;

- (e) an agreement, arrangement or instrument related to the major betting operations licence, the approved licensing agreement, the racing distribution agreement or an agreement, arrangement or instrument referred to in a preceding paragraph of this definition.

* * * * *

False or misleading information

83. A person must not make a statement that is false or misleading in a material particular (whether by reason of the inclusion or omission of any particular) in any information furnished, or record kept, under this Act.

Maximum penalty: \$20 000.

Offences by body corporate

84. If a body corporate is guilty of an offence against this Act, each member of the governing body and the manager of the body corporate are guilty of an offence and liable to the same penalty as may be imposed for the principal offence, unless it is proved that the person could not by the exercise of reasonable diligence have prevented the commission of the offence.

Reasons for decision

85. (1) The Governor is not bound to give reasons for a decision under this Act.

(2) The Authority must, at the request of a person affected by a decision, give reasons for a decision if an appeal lies against the decision as of right, or by leave, to the Supreme Court.

(3) Except as provided in subsection (2), the Authority is not bound to give reasons for a recommendation or decision under this Act.

(4) The Commissioner must, at the request of the Authority, give reasons to the Authority for a decision of the Commissioner under this Act.

(5) Except as provided in subsection (4), the Commissioner is not bound to give reasons for a decision under this Act.

Power of Authority or Commissioner in relation to approvals

86. For the purposes of this Act, an approval of the Authority or the Commissioner required under this Act—

- (a) may, if the Authority or Commissioner thinks fit, be of a general nature extending to matters specified by the Authority or Commissioner; and
- (b) may be unconditional or subject to conditions specified by the Authority or Commissioner.

Confidentiality of information provided by Commissioner of Police

87. No information provided by the Commissioner of Police to the Authority or the Commissioner may be disclosed to any person (except the Minister or a person to whom the Commissioner of Police authorises its disclosure) if the Commissioner of Police asks for the information to be kept confidential on the ground that its disclosure might—

- (a) prejudice present or future police investigations or legal proceedings; or
- (b) create a risk of loss, harm or undue distress.

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Service

88. (1) A notice or document required or authorised by this Act to be given to or served on a person may—

- (a) be served on the person personally; or
- (b) be posted in an envelope addressed to the person's address for service; or
- (c) be transmitted by facsimile transmission or electronic mail to the person's facsimile number or electronic mail address (in which case the notice or document will be taken to have been given or served at the time of transmission).

(2) A person's address for service is the postal address of which the Authority has been last notified in writing as the person's address for service.

Evidence

89. (1) In proceedings for an offence against this Act, an allegation in the complaint—

- (a) that a person was or was not at a specified time the holder of a specified licence, permit or approval; or
- (b) that a licence, permit or approval was at a specified time subject to specified conditions; or
- (c) that premises were or were not at a specified time a licensed betting shop; or
- (d) that a person was or was not at a specified time an authorised officer,

will be accepted as proved in the absence of proof to the contrary.

(2) In any legal proceedings, a document apparently certified by the Authority or the Commissioner to be a licence, permit, agreement, approval, notice or other document issued or made under this Act, or to be a copy of such a document, will be accepted as such in the absence of proof to the contrary.

Annual report

90. (1) The Commissioner must, on or before 30 September in each year, prepare and present to the Authority a report on the administration of this Act during the preceding financial year.

(2) The Authority must, on or before 31 October in each year, prepare and present to the Minister a report on its activities in relation to licensed businesses during the preceding financial year.

(3) The Authority's report must include—

- (a) details of any statutory default occurring during the course of the relevant financial year; and
- (b) details of any disciplinary action taken by the Authority; and
- (c) details of any directions given to the Authority or the Commissioner by the Minister; and
- (d) the Commissioner's report on the administration of this Act together with any observations on that report that the Authority considers appropriate.

(4) The Minister must, within 12 sitting days after receiving the Authority's report, have copies of the report laid before both Houses of Parliament.

Regulations

91. (1) The Governor may make such regulations as are contemplated by, or necessary or expedient for the purposes of, this Act.

(2) Without limiting the generality of subsection (1), the regulations may—

- (a) provide for *ex gratia* payments in relation to unclaimed winnings by the Treasurer and for the appropriation from the Consolidated Account of money required for the purpose;
- (b) fix fees in respect of any matter under this Act and provide for their payment, recovery or waiver;
- (c) impose fines, not exceeding \$5 000, for offences against the regulations.

(3) The regulations may—

- (a) be of general application or vary in their application according to prescribed factors;
- (b) provide that a matter or thing in respect of which regulations may be made is to be determined according to the discretion of the Authority or the Commissioner.

Review of Act

92. The Minister must, within 12 months after the day on which section 7 comes into operation, cause this Act to be reviewed and cause a report of the review to be laid before both Houses of Parliament.

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SCHEDULE 1

Transitional Provisions

Racing controlling authorities

1. (1) The body for the time being designated as the controlling authority for horse racing by proclamation under Part 2 of the *Racing Act 1976* immediately before the commencement of this clause will, on that commencement, be taken to have been designated as the racing controlling authority for horse racing by proclamation under Part 1 of this Act.

(2) The body for the time being designated as the controlling authority for harness racing by proclamation under Part 2 of the *Racing Act 1976* immediately before the commencement of this clause will, on that commencement, be taken to have been designated as the racing controlling authority for harness racing by proclamation under Part 1 of this Act.

(3) The body for the time being designated as the controlling authority for greyhound racing by proclamation under Part 2 of the *Racing Act 1976* immediately before the commencement of this clause will, on that commencement, be taken to have been designated as the racing controlling authority for greyhound racing by proclamation under Part 1 of this Act.

Racing clubs

2. (1) The Minister may, by order in writing, require that on the commencement of section 34 an on-course totalisator betting licence be granted to each club that was a registered racing club within the meaning of the *Racing Act 1976* immediately before that commencement in accordance with specified requirements as to the terms and conditions of the licence and the races that are to be approved contingencies for betting operations under the licence (without the need for any application by the club).

(2) Despite any other provisions of this Act, the Authority must comply with a requirement under subclause (1).

Bookmakers, clerks and licensed betting shops

3. (1) A person authorised to act as a bookmaker by licence under Part 4 of the *Racing Act 1976* immediately before the commencement of this clause will, on that commencement, be taken to have been granted a bookmaker's licence under Part 3 of this Act on the same conditions and for the balance of the term applying to the licence under the *Racing Act 1976*.

(2) A person authorised to act as the clerk of a licensed bookmaker by licence under Part 4 of the *Racing Act 1976* immediately before the commencement of this clause will, on that commencement, be taken to have been granted a clerk's licence under Part 3 of this Act on the same conditions and for the balance of the term applying to the licence under the *Racing Act 1976*.

(3) A bookmaker authorised to conduct betting in premises registered under Part 4 of the *Racing Act 1976* immediately before the commencement of this clause will, on that commencement, be taken to have been granted a betting shop licence under Part 3 of this Act on the same conditions and for the balance of the term applying to the registration of the premises under the *Racing Act 1976*.

(4) A licensed bookmaker or group of licensed bookmakers authorised to accept bets by permit under Part 4 of the *Racing Act 1976* immediately before the commencement of this clause will, on that commencement, be taken to have been granted a permit under Division 2 of Part 4 of this Act authorising the acceptance of the bets.

(5) An event or combination of events constituting an approved event under Part 4 of the *Racing Act 1976* immediately before the commencement of this clause will, on that commencement, be taken to have been approved by the Authority under section 4 as a contingency for fixed-odds betting by bookmakers.

(6) Rules in force under Part 4 of the *Racing Act 1976* immediately before the commencement of this clause will, on that commencement, be taken to have been made by the Authority under Division 2 of Part 4 of this Act.

(7) A bond or other security lodged by an applicant for, or holder of, a licence under Part 4 of the repealed *Racing Act 1976* in accordance with the rules under that Part will be taken to have been lodged with the Authority in accordance with the rules under Division 2 of Part 4 of this Act, and a reference in the bond or other security to the Racing Industry Development Authority or the Bookmakers Licensing Board or the Betting Control Board will be taken to be a reference to the Authority.

Financial arrangements with racing industry

4. (1) While TABCO holds the major betting operations licence and is a State-owned company—

- (a) the racing distribution agreement cannot take effect;
- (b) the net gambling revenue must be applied as follows:
 - (i) firstly, in payment of the GST in respect of the net gambling revenue;
 - (ii) secondly, in payment of such amount, as the Minister directs, towards the administrative and operating expenses of TABCO (excluding the GST referred to in subparagraph (i));
 - (iii) thirdly, in payment to the racing controlling authorities in the respective shares specified in subclause (2)(b) of an amount equal to 1 per cent of the amount of totalisator bets (other than interstate bets) made with TABCO on doubles and an amount equal to 1.4 per cent of the amount of totalisator bets (other than interstate bets) made with TABCO on multiples;
 - (iv) fourthly, in payment towards the capital expenses of TABCO of an amount equal to 0.5 per cent of the amount of totalisator bets (other than interstate bets) made with TABCO on race-results;
 - (v) fifthly, in payment to the racing controlling authorities in the respective shares specified in subclause (2)(b) of an amount equal to 0.5 per cent of the amount of totalisator bets (other than interstate bets) made with TABCO on race-results;
 - (vi) sixthly, in payment of amounts approved by the Minister towards reserves of TABCO;
 - (vii) seventhly, in payment to the Treasurer to be credited to the Consolidated Account of an amount equal to 6 per cent of the net gambling revenue;
 - (viii) eighthly, in payment to the racing controlling authorities in the respective shares specified in subclause (2)(b) of an amount equal to 18.45 per cent of the net gambling revenue;
 - (ix) ninthly, in accordance with subclause (2);
- (c) a dividend payable on a totalisator bet made with TABCO on a race-result is not to include any fraction of five cents;
- (d) the total amount of those fractions retained by TABCO less amounts of the fractions agreed to be paid to interstate totalisator authorities must be applied as follows:
 - (i) 50 per cent must be paid to the Treasurer to be credited to the Consolidated Account;
 - (ii) the balance must be paid to the racing controlling authorities in the respective shares specified in subclause (2)(b);
- (e) TABCO is not liable to pay a dividend to a person making a totalisator bet on a race-result after the end of six months commencing on the day on which the race was held;
- (f) the total amount of those dividends retained by TABCO less amounts of the dividends agreed to be paid to interstate totalisator authorities must be applied as follows:
 - (i) 50 per cent must be paid to the Treasurer to be credited to the Consolidated Account;
 - (ii) the balance must be paid to the racing controlling authorities in the respective shares specified in subclause (2)(b).

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(2) The total remaining at the end of each quarter, after deducting the amount of the payments required by subclause (1)(b)(i) to (viii) and any payments required under the regulations in respect of that quarter, must be applied as soon as practicable after the end of that quarter as follows:

- (a) 45 per cent must be paid to the Treasurer to be credited to the Consolidated Account; and
- (b) the amount remaining after the payment referred to in paragraph (a) must be shared between the racing controlling authorities as follows:
 - (i) 73.5 per cent is to be paid to the racing controlling authority for horse racing;
 - (ii) 17.5 per cent is to be paid to the racing controlling authority for harness racing;
 - (iii) 9 per cent is to be paid to the racing controlling authority for greyhound racing.

(3) Despite subclause (2), TABCO may, with the approval of the Minister, before the expiration of a quarter, make an advance to a racing controlling authority towards the payment to be made under that subclause to the racing controlling authority in respect of that quarter.

(4) In this clause—

"net gambling revenue" means the amounts deducted and retained by TABCO from totalisator bets on race-results less amounts agreed to be paid to interstate totalisator authorities;

"quarter" means a period of approximately one quarter of a year—

- (a) commencing on the first day of January, April, July or October if the day concerned is a Thursday or, if it is not, then commencing on the day nearest to that day that is a Thursday; and
- (b) ending on 31 March, 30 June, 30 September or 31 December if the day concerned is a Wednesday or, if it is not, then ending on the day nearest to that day that is a Wednesday;

"race-result", in relation to totalisator betting, means a single, double or multiple but does not include a race-result on a race of a kind prescribed by regulation.

(5) Terms used in this clause that are defined in section 5 of the repealed *Racing Act 1976* (other than **"race-result"**) have the same respective meanings as in that section.

Financial arrangements with football league

5. (1) While TABCO holds the major betting operations licence and is a State-owned company—

- (a) the net gambling revenue in respect of a football totalisator pool must be applied as follows:
 - (i) firstly, in payment of the GST in respect of the net gambling revenue;
 - (ii) secondly, in payment of such amount, as the Minister directs, towards the administrative and operating expenses of TABCO (excluding the GST referred to in subparagraph (i));
 - (iii) thirdly, in payment towards the capital expenses of TABCO of an amount equal to 1 per cent of the football totalisator pool;
 - (iv) fourthly, in payment of an amount equal to 6 per cent of the net gambling revenue to the Treasurer to be credited to the Consolidated Account;
 - (v) fifthly, in payment of an amount equal to 15.09 per cent of the net gambling revenue to the South Australian National Football League;
 - (vi) sixthly, in payment of the balance (if any) in equal shares to the Treasurer to be credited to the Consolidated Account and the South Australian National Football League;

- (b) TABCO is not required to make payments under paragraph (a) before 31 December in the year in which the bets constituting the football totalisator pool were made;
- (c) a dividend payable on a totalisator bet made with TABCO on a football-result is not to include any fraction of five cents;
- (d) the total amount of those fractions retained by TABCO on any day less amounts of the fractions drawn on to pay dividends payable on bets contributing to a pool on that day that is insufficient to pay all winning bet dividends must, before the end of three weeks commencing on that day, be applied as follows:
 - (i) 50 per cent must be paid to the Treasurer to be credited to the Consolidated Account;
 - (ii) the balance must be paid to the South Australian National Football League;
- (e) TABCO is not liable to pay a dividend to a person making a totalisator bet on a football-result after the end of six months commencing on the day on which the football match was held;
- (f) the total amount of those dividends retained by TABCO must be applied as follows:
 - (i) 50 per cent must be paid to the Treasurer to be credited to the Consolidated Account;
 - (ii) the balance must be paid to the South Australian National Football League.

(2) In this clause—

"net gambling revenue", in respect of a football totalisator pool, means the amounts deducted and retained by TABCO from totalisator bets constituting the football totalisator pool.

(3) Terms used in this clause that are defined in section 5 of the repealed *Racing Act 1976* have the same respective meanings as in that section.

Existing agreements with interstate totalisator authorities etc.

6. If an agreement entered into under section 82, 82A, 82B, 84K or 84L of the repealed *Racing Act 1976* is in force immediately before the commencement of this clause under which TAB or TABCO acts as the agent of another in conducting betting operations, then, on that commencement, the other person is not required to hold a licence under this Act for the purpose of conducting betting operations under the agreement and those betting operations are, if otherwise conducted in accordance with this Act, lawful and do not, in themselves, constitute a public or private nuisance.

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SCHEDULE 2*Consequential Amendments***Amendment of Criminal Law (Undercover Operations) Act**

1. The *Criminal Law (Undercover Operations) Act 1995* is amended—

- (a) by striking out from paragraph (d) of the definition of "**serious criminal behaviour**" in section 2 "section 63(1)(a)" and substituting "section 63";
- (b) by striking out paragraph (f) of the definition of "**serious criminal behaviour**" in section 2.

Amendment of Gaming Supervisory Authority Act¹

2. The *Gaming Supervisory Authority Act 1995* is amended—

- (a) by striking out section 3 and substituting the following section:

Interpretation

3. In this Act—

"**Authority**" means the Gaming Supervisory Authority established under this Act;

"**Commissioner**" means the person for the time being holding or acting in the office of the Liquor and Gaming Commissioner under the *Liquor Licensing Act 1997* (or the Commissioner's delegate);

"**prescribed Act**" means—

- (a) the *Casino Act 1997*; or
- (b) the *Gaming Machines Act 1992*; or
- (c) any other Act that assigns functions to the Authority;

"**proceedings**" means proceedings on an inquiry, review or appeal.;

- (b) by inserting after the present contents of section 4 (now to be designated as subsection (1)) the following subsection:

(2) The Authority is an instrumentality of the Crown but is not subject to Ministerial control or direction except as provided by this or any other Act.;

- (c) by striking out subsection (3) of section 5 and substituting the following subsection:

(3) A person who, without the approval of the Minister, has a direct or indirect pecuniary or personal interest in a licensee, or a business conducted by a licensee, under a prescribed Act is not eligible for appointment to the Authority.;

- (d) by striking out section 11 and substituting the following section:

Functions and powers of Authority

11. (1) The functions of the Authority are—

- (a) to ensure that an effective and efficient system of supervision is established and maintained over the operations of licensees under prescribed Acts; and
- (b) to advise, and make recommendations to, the Minister on matters relating to the operations of licensees under prescribed Acts or on any aspect of the operation, administration or enforcement of prescribed Acts; and

¹ Cl. 2 had not been brought into operation at the date of this reprint.

(c) to perform other functions assigned to the Authority under this Act or a prescribed Act or by the Minister.

(2) The Authority has power to do anything that is necessary for, or incidental to, the performance of its functions.

(3) The Authority may require the Commissioner to furnish the Authority with a report on any matter relating to—

(a) the operations of a licensee under a prescribed Act; or

(b) the operation, administration or enforcement of a prescribed Act.

(4) The Authority may give the Commissioner directions in relation to the discharge by the Commissioner of his or her responsibility to the Authority under a prescribed Act, but is not empowered to direct or in any way influence the Commissioner in the exercise by the Commissioner of a discretion under a prescribed Act.;

(e) by striking out subsection (2) of section 12 and substituting the following subsections:

(2) The presiding member, or in his or her absence the deputy of the presiding member, must preside at meetings of the Authority or proceedings before the Authority.

(3) A unanimous or majority decision of the members present at a meeting of the Authority or hearing proceedings before the Authority is a decision of the Authority.

(4) The Authority may—

(a) hold meetings and conduct proceedings by telephone or other electronic means;

(b) allow a person to participate in meetings or proceedings by telephone or other electronic means.;

(f) by striking out subsection (1) of section 13 and substituting the following subsection:

(1) The Authority—

(a) may hold an inquiry whenever it considers it necessary or desirable to do so for the purpose of carrying out its functions; and

(b) must, if requested to do so by the Minister, hold an inquiry into any matter relating to—

(i) the operations of a licensee under a prescribed Act; or

(ii) the operation, administration or enforcement of a prescribed Act.;

(g) by striking out from section 14(1) "an inquiry or other";

(h) by striking out from section 15(1) "in any proceedings";

(i) by striking out from section 15(2) "in proceedings";

(j) by inserting after section 15 the following section:

Delegation

15A. (1) The Authority may, by instrument in writing, delegate to a member, deputy member or the Secretary of the Authority or the Commissioner any of the powers or functions of the Authority under this Act or a prescribed Act (other than the conduct of an inquiry or review or appeal).

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(2) *A delegation under this section—*

- (a) *may be unconditional or subject to conditions specified by the delegator; and*
- (b) *does not derogate from the power of the delegator to act personally in any matter; and*
- (c) *is revocable at will by the delegator.;*

(k) *by striking out from section 16 "or employee of the Authority" and substituting "of the Authority or the Commissioner";*

(l) *by striking out subsection (1) of section 17 and substituting the following subsection:*

(1) A member or former member of the Authority, the Commissioner or a former Commissioner or any officer or employee engaged or formerly engaged in administration or enforcement of this Act or a prescribed Act must not disclose confidential information obtained in the course of carrying out official functions except—

- (a) *to another person who has official functions under this Act or a prescribed Act, to the Commissioner of Police or as may otherwise be required for carrying out such official functions; or*
- (b) *as required by law; or*
- (c) *as permitted by the person in whose favour the duty of confidentiality exists; or*
- (d) *to a reciprocating authority, or an officer or employee of a reciprocating authority.*

Maximum penalty: \$10 000.

Amendment of Lottery and Gaming Act

3. *The Lottery and Gaming Act 1936 is amended—*

(a) *by striking out section 4A and substituting the following sections:*

Crown bound

4A. (1) *This Act binds the Crown.*

(2) *Nothing in this Act renders the Crown in any of its capacities liable to be prosecuted for an offence.*

(3) *For the purposes of this section, a reference to the Crown extends—*

- (a) *not only to the Crown in right of this State but also (so far as the legislative power of the State permits) to the Crown in any other capacity; and*
- (b) *to an instrumentality of the Crown, and to an officer or employee of the Crown and any contractor or other person who carries out functions on behalf of the Crown.*

Act subject to other Acts authorising gambling

4AB. *This Act has effect subject to the provisions of any other Act by which lotteries, betting or gaming, or any related activities, are authorised or declared to be lawful.;*

(b) *by striking out from section 14B(1)(k) "a division 7 fine" and substituting "\$2 500";*

- (c) by striking out subsections (2) to (6) (inclusive) of section 57 and substituting the following subsection:

(2) This section does not apply to a body conducting totalisator betting as authorised under another Act.;

- (d) by striking out paragraphs (a) and (b) of section 63(1);

- (e) by striking out paragraphs (a) and (b) of section 64(1);

- (f) by striking out section 98 and substituting the following section:

Evidentiary provision relating to licences and permits

98. In proceedings for an offence against this Act, an allegation in the complaint—

- (a) that a person was or was not at a specified time the holder of a specified licence or permit under another Act; or
- (b) that a specified licence or permit under another Act was at a specified time subject to specified conditions,

will be accepted as proved in the absence of proof to the contrary.;

- (g) by inserting after section 113 the following section:

Dishonest, deceptive or misleading conduct

113A. A person involved (whether as principal, agent or employee) in the conduct of any lawful or unlawful lottery, gaming or betting operations who acts in a dishonest, deceptive or misleading manner in connection with the operations is guilty of an offence.

Maximum penalty: \$50 000 or 2 years imprisonment.;

- (h) by striking out the penalty provision from each of the provisions listed below and substituting the penalty provision listed opposite:

section 6(1)	Maximum penalty: \$10 000.
section 6(2)	Maximum penalty: \$10 000.
section 6(3)	Maximum penalty: \$1 250.
section 7	Maximum penalty: \$2 500.
section 8	Maximum penalty: \$2 500.
section 10	Maximum penalty: \$2 500.
section 11	Maximum penalty: \$2 500.
section 12(1)	Maximum penalty: \$2 500.
section 13	Maximum penalty: \$2 500.
section 14C(1)	Maximum penalty: \$5 000.
section 16(1)	Maximum penalty: \$5 000.
section 18(3)	Maximum penalty: \$5 000.
section 49	Maximum penalty: \$10 000 or imprisonment for 2 years.
section 51	Maximum penalty: \$1 250.
section 52	Maximum penalty: \$10 000 or imprisonment for 2 years.
section 53	Maximum penalty: \$2 500.
section 54	Maximum penalty: \$2 500.
section 55	Maximum penalty: \$2 500.
section 56	Maximum penalty: \$5 000.
section 57(1)	Maximum penalty: \$5 000.
section 57(6)	Maximum penalty: \$5 000.
section 58	Maximum penalty: \$5 000.
section 60(1)	Maximum penalty: \$5 000.
section 61(1)	Maximum penalty: \$2 500.
section 61(2)	Maximum penalty: \$2 500.
section 61(3)	Maximum penalty: \$750.

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section 62	Maximum penalty: \$5 000 or imprisonment for 1 year.
section 63(1)	Maximum penalty: \$50 000 or imprisonment for 4 years.
section 63(2)	Maximum penalty: \$5 000 or imprisonment for 1 year.
section 64(1)	Maximum penalty: \$20 000 or imprisonment for 1 year.
section 64(2)	Maximum penalty: \$5 000 or imprisonment for 6 months.
section 68	Maximum penalty: \$2 500.
section 69(2)	Maximum penalty: \$2 500.
section 72	Maximum penalty: \$2 500 or imprisonment for 6 months.
section 73(2)(b)	Maximum penalty: \$2 500.
section 75(1)	Maximum penalty: \$20 000 or imprisonment for 1 year.
section 76	Maximum penalty: \$5 000.
section 77	Maximum penalty: \$5 000.
section 84	Maximum penalty: \$5 000.
section 85	Maximum penalty: \$5 000.
section 86	Maximum penalty: \$20 000 or imprisonment for 1 year.
section 88	Maximum penalty: \$10 000 or imprisonment for 1 year.
section 88A	Maximum penalty: \$10 000 or imprisonment for 1 year.
section 90(3)	Maximum penalty: \$20 000 or imprisonment for 1 year.
section 91	Maximum penalty: \$20 000 or imprisonment for 1 year.
section 92(1)	Maximum penalty: \$20 000 or imprisonment for 1 year.
section 92(2)	Maximum penalty: \$20 000 or imprisonment for 1 year.
section 93	Maximum penalty: \$5 000.
section 94	Maximum penalty: \$5 000.
section 95	Maximum penalty: \$2 500.
section 114(1)	Maximum penalty: \$5 000.
section 115(2)	Maximum penalty: \$2 500.

Amendment of Workers Rehabilitation and Compensation Act

4. The *Workers Rehabilitation and Compensation Act 1986* is amended by striking out paragraph (a) of section 58(2) and substituting the following paragraph:

- (a) a person authorised or permitted by a racing controlling authority within the meaning of the *Authorised Betting Operations Act 2000* to ride or drive in a race within the meaning of that Act; or.

APPENDIX

LEGISLATIVE HISTORY

Section 3(1):	definition of "Authority" substituted by 18, 2001, s. 4(a) definition of "Commissioner" amended by 18, 2001, s. 4(b)
Section 12(6):	amended by 18, 2001, s. 5
Section 24(4):	amended by 18, 2001, s. 6
Section 37:	redesignated as s. 37(1) by 18, 2001, s. 7
Section 37(2):	inserted by 18, 2001, s. 7
Section 59:	repealed by 64, 2001, s. 4
Section 82:	repealed by 64, 2001, s. 5