

# Racing and Wagering Legislation Amendment Bill 2009

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Western Australia

LEGISLATIVE ASSEMBLY

**Racing and Wagering Legislation Amendment  
Bill 2009**

**A Bill for**

**An Act to amend —**

- the *Betting Control Act 1954*; and
- the *Gaming and Wagering Commission Act 1987*; and
- the *Racing and Wagering Western Australia Act 2003*,  
and for related purposes.

The Parliament of Western Australia enacts as follows:

1  
2  
3  
4  
5  
6  
7  
8  
9  
10

## **Part 1 — Preliminary**

### **1. Short title**

This is the *Racing and Wagering Legislation Amendment Act 2009*.

### **2. Commencement**

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

1           **Part 2 — *Betting Control Act 1954* amended**

2   **3.       Act amended**

3           This Part amends the *Betting Control Act 1954*.

4   **4.       Long title amended**

5           In the long title:

6           (a)   delete “**bookmakers**” and insert:

7

8                       **bookmakers, other betting operators**

9

10          (b)   delete “**to prohibit betting through, and the**  
11               **establishment and operation of, betting exchanges;**”.

12   **5.       Section 4 amended**

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

14

15                       *approval* means an approval under section 27D(2);

16                       *authorisation* means an authorisation under  
17                       section 27F that has effect;

18                       *domestic betting operator* means a person who in this  
19                       State or another State or a Territory is authorised under  
20                       a law of that State or Territory to engage in or conduct  
21                       the business of betting on races;

22                       *offshore betting operator* means a person who is  
23                       authorised under the law of a jurisdiction outside  
24                       Australia to engage in or conduct the business of  
25                       betting on races or sporting events;

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1                    **WA race field** means information that identifies, or is  
2                    capable of identifying, the names or numbers of the  
3                    horses or greyhounds —  
4                    (a) that have been nominated for, or that will  
5                    otherwise take part in, an intended race to be  
6                    conducted in this State; or  
7                    (b) that have been scratched or withdrawn from an  
8                    intended race to be conducted in this State.

9  
10            (2) In section 4(1) in the definition of **totalisator agency** delete  
11            “with RWWA.” and insert:

12  
13            with RWWA;

14  
15            **6. Sections 14A and 14B inserted**

16            At the beginning of Part 3 insert:

17  
18            **14A. Betting operators’ liability to lodge returns and to**  
19            **pay racing bets levy**

20            (1) In this section —

21            **betting operator** means —

22            (a) a domestic betting operator; or

23            (b) an offshore betting operator; or

24            (c) the operator of a betting exchange;

25            **gross revenue** means charges, commission,  
26            consideration, earnings, fees, reward or other  
27            remuneration (however described) payable to or  
28            received by a betting operator in relation to racing bets  
29            placed with, or placed and accepted through, the  
30            operator;

- 1                    **rac**ing bet means a bet placed with, or placed or  
2                    accepted through, the betting operator that is —
- 3                    (a)    placed with a domestic betting operator or an  
4                    offshore betting operator; or
- 5                    (b)    of the type referred to in paragraph (a) or (b) of  
6                    the definition of **betting exchange** in  
7                    section 4AA,
- 8                    on a horse or greyhound race conducted in Western  
9                    Australia;
- 10                   **turnover** means the total amount of racing bets and  
11                   includes bet backs placed on the backers side of the  
12                   bets by one bookmaker with another bookmaker solely  
13                   for the purpose of lowering the risk incurred by the  
14                   bookmaker on bets already accepted from a customer.
- 15                   (2)    In respect of racing bets placed with, or placed or  
16                   accepted through, a betting operator on or after  
17                   1 September 2008, the betting operator must —
- 18                   (a)    within the period prescribed, lodge with the  
19                   Commission a return in the form approved by  
20                   the Commission in writing; and
- 21                   (b)    at the time of lodging each return required by  
22                   paragraph (a), pay to the Commission the  
23                   racing bets levy on the whole of the gross  
24                   revenue or turnover, as the case may be, of the  
25                   betting operator at the rate imposed by the  
26                   *Racing Bets Levy Act 2009*.
- 27                   Penalty:
- 28                   (a)    a fine of \$10 000;
- 29                   (b)    for each separate and further offence  
30                   committed by the person under the  
31                   *Interpretation Act 1984* section 71, a fine of  
32                   \$1 000.

**s. 7**

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- 1 (3) Section 18B(2) to (6) apply as if a reference in those  
2 provisions —  
3 (a) to the bookmaker's betting levy were a  
4 reference to the racing bets levy; and  
5 (b) to a bookmaker were a reference to a betting  
6 operator.
- 7 (4) An amount that is payable by a person to the  
8 Commission under this section but is not paid may be  
9 recovered from that person as a debt due to the  
10 Commission in any court of competent jurisdiction.

11 **14B. Transitional**

12 If a bookmaker has paid an amount of levy under  
13 section 14(2)(b) in relation to a racing bet (as defined  
14 in section 14A(1)) placed with the bookmaker in the  
15 period beginning on 1 September 2008 and ending on  
16 the day on which this Act receives the Royal Assent,  
17 that amount is to be credited against any amount that  
18 the bookmaker is liable to pay under section 14A(2)(b).  
19

20 **7. Section 15 amended**

21 In section 15(5)(a):

- 22 (a) in subparagraph (ii) delete “applies; or” and insert:  
23  
24 applies,  
25  
26 (b) delete subparagraph (iii).



1 **8. Section 16 amended**

2 In section 16(3a)(a):

3 (a) in subparagraph (ii) delete “applies; or” and insert:

4

5 applies,

6

7 (b) delete subparagraph (iii).

8 **9. Section 23 amended**

9 In section 23(1):

10 (a) in paragraph (a) delete “in a place; or” and insert:

11

12 in a place in this State; or

13

14 (b) in paragraph (b) after “public place” insert:

15

16 in this State

17

18 **10. Section 24 amended**

19 (1) In section 24(1) delete “at any place,” and insert:

20

21 at any place in this State,

22

23 (2) Delete section 24(1aa).

24 (3) In section 24(1a) delete “subsection (1) or (1aa),” and insert:

25

26 subsection (1),

27

**s. 11**

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- 1 (4) In section 24(2) delete the definition of *interstate offence* and  
2 insert:

3

4 *interstate offence* means an offence under the law of  
5 another State or a Territory, which offence is declared  
6 by the regulations to be an offence that corresponds to  
7 an offence under that subsection.  
8

9 **11. Section 27A amended**

- 10 (1) In section 27A(1) in the definition of *offshore bet* paragraph (c)  
11 delete “outside Australia;” and insert:

12

13 outside Australia).  
14

- 15 (2) In section 27A(1) delete the definition of *offshore betting*  
16 *operator*.

17 **12. Sections 27B and 27C deleted**

18 Delete sections 27B and 27C.

19 **13. Section 27D amended**

- 20 (1) Delete section 27D(1) and insert:  
21

22

23 (1) Section 27D applies to —

- 24 (a) a person who in this State or elsewhere —  
25 (i) carries on the business or vocation of, or  
26 acts as, a bookmaker; or  
27 (ii) conducts betting by the operation of a  
28 totalisator; or  
29 (iii) operates a betting exchange (however  
described); or

- 1 (iv) gains or endeavours to gain a livelihood  
2 wholly or partly by making bets;  
3 or  
4 (b) a person who is an employee or agent of a  
5 person referred to in paragraph (a).
- 6 (2A) A person to whom this section applies who, in this  
7 State or elsewhere, publishes or otherwise makes  
8 available a WA race field in the course of business  
9 commits an offence unless the person —
- 10 (a) is a domestic betting operator who —  
11 (i) is authorised to do so by an  
12 authorisation; and  
13 (ii) complies with any condition that is  
14 prescribed by the regulations for the  
15 purposes of section 27F(1);  
16 or  
17 (b) is an offshore betting operator who —  
18 (i) is authorised to do so by an approval;  
19 and  
20 (ii) complies with any condition to which  
21 the approval is subject.

22 Penalty: a fine of \$5 000.

- 23  
24 (2) In section 27D(2):  
25 (a) delete “a person” and insert:  
26  
27 an offshore betting operator  
28  
29 (b) delete “Minister” and insert:  
30  
31 Commission  
32

**s. 14**

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- 1 (c) delete “the person” and insert:  
2  
3 the operator  
4
- 5 (3) After section 27D(3) insert:  
6
- 7 (4A) An approval is subject to the following conditions —  
8 (a) that the holder of the approval provide the  
9 Commission or an officer of RWWA approved  
10 in writing by the Commission with prescribed  
11 information and access in a prescribed manner;  
12 (b) that the holder of the approval comply with  
13 prescribed conditions for cooperating with  
14 authorised officers of the Commission and the  
15 Chief Steward of RWWA relating to the  
16 preservation of the integrity and reputation of  
17 racing in the State.  
18
- 19 (4) In section 27D(4), (5), (6) and (7) delete “Minister” (each  
20 occurrence) and insert:  
21  
22 Commission  
23
- 24 **14. Sections 27E and 27F replaced**  
25 Delete sections 27E and 27F and insert:  
26
- 27 **27E. Confidentiality**  
28 (1) This section applies to the following —  
29 (a) a member of the Commission;  
30 (b) an officer or employee who provides or has  
31 provided services to the Commission under the



**s. 14**

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- 1           **27F. Authorisation of publication of WA race fields by**  
2           **domestic betting operators**
- 3           (1) Subject to this section and compliance with any  
4           condition that is prescribed by the regulations for the  
5           purposes of this subsection, a domestic betting operator  
6           is in this State and elsewhere authorised to publish or  
7           otherwise make available a WA race field.
- 8           (2) An authorisation is subject to the following  
9           conditions —
- 10                 (a) that the domestic betting operator provide the  
11                 Commission or an officer of RWWA approved  
12                 in writing by the Commission with prescribed  
13                 information and access in a prescribed manner;
- 14                 (b) that the domestic betting operator comply with  
15                 prescribed conditions for cooperating with  
16                 authorised officers of the Commission and the  
17                 Chief Steward of RWWA relating to the  
18                 preservation of the integrity and reputation of  
19                 racing in the State.
- 20           (3) The Commission may, by notice in writing —
- 21                 (a) cancel the authorisation of a domestic betting  
22                 operator; or
- 23                 (b) suspend the authorisation of a domestic betting  
24                 operator for a period specified in the notice.
- 25           (4) Before deciding to cancel or suspend the authorisation  
26           of a domestic betting operator, the Commission is to  
27           have regard to the prescribed criteria relating to a  
28           domestic betting operator.
- 29           (5) If the Commission has reason to cancel or suspend the  
30           authorisation of a domestic betting operator, it is not to  
31           do so without giving the operator an opportunity to  
32           show cause why the authorisation should not be  
33           cancelled or suspended.

- 1 (6) If the Commission decides to cancel or suspend the  
2 authorisation of a domestic betting operator, the  
3 Commission is to give notice in writing of the decision  
4 and the reasons for the decision to the operator.
- 5 (7) If an authorisation of a domestic betting operator is  
6 cancelled, the operator may apply in a form approved  
7 by the Commission, after the date specified by the  
8 Commission in the notice given under subsection (6),  
9 for restoration of the authorisation.
- 10 (8) An application under subsection (7) is to be  
11 accompanied by the prescribed fee (if any).  
12

13 **15. Section 28A amended**

14 In section 28A(3) delete “27, 27A or 27B.” and insert:

15

16 27 or 27A.  
17

18 **16. Section 28B amended**

19 In section 28B delete “27, 27A or 27B —” and insert:

20

21 27 or 27A —  
22

23 **17. Section 28G amended**

24 (1) In section 28G delete “Any manager,” and insert:

25

26 (1) Any manager,  
27

**s. 17**

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- 1 (2) At the end of section 28G insert:  
2
- 3 (2) Subsection (1) does not apply to a bet received after the  
4 start of a sporting event but before the end of that event  
5 if —
- 6 (a) the event has been, or is of a class of event that  
7 has been, approved in writing by the  
8 Commission for the purpose of this subsection;  
9 or
- 10 (b) the bet is received in the course of the  
11 participation by RWWA in —
- 12 (i) a combined totalisator pool scheme  
13 under the *Racing and Wagering*  
14 *Western Australia Act 2003* section 59;  
15 or
- 16 (ii) a jointly operated fixed odds wagering  
17 system under the *Racing and Wagering*  
18 *Western Australia Act 2003* section 61.  
19



1                   **Part 3 — *Gaming and Wagering Commission***  
2   ***Act 1987* amended**

3   **18.       Act amended**

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

6   **19.       Section 43A amended**

7                   In section 43A(3):

8                   (a)   before paragraph (d) insert:

9  
10                                   (da) a person who in another State or a Territory is  
11                                   authorised under a law of the State or Territory  
12                                   to engage in or conduct the business of betting  
13                                   on races or sporting events; or

14  
15                   (b)   after each of paragraphs (a) and (b) insert:

16  
17                                   or

18  
19   **20.       Section 110B inserted**

20                   After section 110A insert:

21  
22                   **110B.   Racing Bets Levy Account**

23                   (1)   An account called the Racing Bets Levy Account is to  
24                   be established —

25                                   (a)   as an agency special purpose account under the  
26                                   *Financial Management Act 2006* section 16; or

**s. 20**

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- 1 (b) with the approval of the Treasurer, at a bank as  
2 defined in section 3 of that Act,  
3 to which the Commission must credit moneys paid to  
4 or recovered by the Commission under the *Betting*  
5 *Control Act 1954* section 14A.
- 6 (2) The Racing Bets Levy Account is to be administered  
7 by the Commission.
- 8 (3) The Racing Bets Levy Account is to be applied for the  
9 purpose of the payment of the outgoings and expenses  
10 referred to in subsection (4)(a).
- 11 (4) The Commission is to —  
12 (a) withdraw from the Racing Bets Levy Account,  
13 at monthly intervals, a sum approved by the  
14 Minister for outgoings and expenses incurred  
15 by the Commission in administering the  
16 Account; and  
17 (b) pay or credit, at prescribed intervals, the  
18 balance of that Account in accordance with this  
19 section.
- 20 (5) The balance of the Racing Bets Levy Account is to be  
21 paid or credited to RWWA or paid or credited by the  
22 Commission, in such amounts as it determines, to the  
23 following —  
24 (a) thoroughbred racing clubs registered with  
25 RWWA;  
26 (b) harness racing clubs registered with RWWA;  
27 (c) greyhound racing clubs registered with  
28 RWWA.  
29

1   **21.   Section 117 amended**

2           In section 117:

3           (a)   in paragraph (d) delete “Commission.” and insert:

4

5                       Commission; and

6

7           (b)   after paragraph (d) insert:

8

9                       (e)   for regulating (including prohibiting  
10                               advertisements of a type that are not in the  
11                               public interest) the content of advertisements  
12                               that convey, or are likely to be understood as  
13                               conveying, the existence (in this State or  
14                               elsewhere) of —

15                               (i)   a person referred to in section 43A(3)(a)  
16                                       to (da); or

17                               (ii)  a person or class of person prescribed  
18                                       under section 43A(3)(d).

19

20           (c)   after each of paragraphs (a) and (b) insert:

21

22                       and

23

1 **Part 4 — *Racing and Wagering Western Australia***  
2 ***Act 2003* amended**

3 **22. Act amended**

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

6 **23. Section 30 amended**

7 Delete section 30(2)(ba) and “and” after it.

8 **24. Section 59 amended**

9 In section 59(3) delete “contractual arrangement entered into  
10 with that person.” and insert:

11

12 contractual arrangement.

13

14 **25. Section 61 amended**

15 In section 61(3) delete “contractual arrangement entered into  
16 with that person.” and insert:

17

18 contractual arrangement.

19

20 **26. Section 68 amended**

21 After section 68(2) insert:

22

23 (3) A strategic development plan must set out the  
24 proportions in which funds will be distributed under  
25 section 107A(2).

26

1   **27.     Section 77 amended**

2           In section 77(2):

3           (a)   after paragraph (c) insert:

4

5                   (da)   the proportions in which funds will be  
6                               distributed under section 107A(2); and

7

8           (b)   in paragraph (g) delete “half-yearly and annual reports;  
9                   and” and insert:

10

11                   annual report; and

12

13           (c)   after each of paragraphs (a), (b), (c), (d), (e) and  
14                   (f) insert:

15

16                   and

17

18   **28.     Section 107A inserted**

19           After section 106 insert:

20

21   **107A.   Distribution of funds from the racing bets levy**

22           (1)   If RWWA receives moneys from the Commission  
23                   under the *Gaming and Wagering Commission Act 1987*  
24                   section 110B(5), RWWA is to credit those moneys to  
25                   an account (the *racing bets levy account*) maintained  
26                   under section 88 for the sole purpose of dealing with  
27                   those moneys under this section.

**s. 28**

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- 1           (2) The funds in the racing bets levy account are to be paid  
2           or credited by RWWA, in such amounts as it  
3           determines, to —
- 4               (a) thoroughbred racing clubs registered  
5               with RWWA; and
- 6               (b) harness racing clubs registered with RWWA;  
7               and
- 8               (c) greyhound racing clubs registered  
9               with RWWA.
- 10

11

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