

EXPLANATORY MEMORANDUM

ACTS AMENDMENT (FIXED ODDS BETTING) BILL 1999

General Overview

Principal changes proposed by this Bill are as follows.

1. To authorise the Totalisator Agency Board of Western Australia (TAB) to -
 - conduct fixed odds betting on horse and greyhound races and on other events including sporting events;
 - accept electronic and other commercially acceptable forms of payment for a bet; and
 - supplement betting pools with funds reserved for that purpose.
2. To validate the inclusion of a bet in a totalisator pool, and the dividend declared in relation to that pool, in circumstances where the lodgement or receipt of that bet may not have been in accordance with the provisions of the Totalisator Agency Board Betting Act, or the outcome of the event, once declared, is later disputed.
3. To establish a dedicated offence provision for credit betting by an officer, agent, or employee of an agent, of the TAB.

Clause 1 Short title

Cites the Act as the Acts Amendment (Fixed Odds Betting) Act 1999 (the amendment act).

Clause 2 Commencement

Stipulates that the commencement date shall be a date set by proclamation.

Clause 3 Principal Act - Totalisator Agency Board Betting Act

Identifies the Totalisator Agency Board Betting Act 1960 as being the principal act in respect of part 2 of the amendment act.

Clause 4 Long title amended

Amends the long title to reflect the expansion into fixed odds betting.

Clause 5 Part heading inserted

Inserts a new part heading "**Part 1 - Preliminary**" before section 1.

Clause 6 Section 4 amended

Inserts new definitions for "Betting Control Board" and "fixed odds bet", and amends the definition of "totalisator agency".

Clause 7 Part heading inserted

Inserts a new part heading "**Part 2 - The TAB**" before section 1.

Clause 8 Section 4 amended

Broadens the functions of the TAB to include accepting and making fixed odds bets.

Adds a new subsection (2)(3a) to clarify that where there is any inconsistency between a direction given to the TAB by the Minister under s5 and a duty imposed by s4(3), the direction given by the Minister prevails.

Clause 9 New section 4A inserted

Inserts a provision requiring the TAB to perform its functions in accordance with a strategic development plan and a statement of corporate intent.

Clause 10
Section 14A repealed

Repeals section 14A (Minister's access to information). The provisions of the section have been moved to new section 19AQ as part of the "provisions as to accountability" in new part 3 (refer clause 12)

Clause 11
Section 15 amended

Makes a minor wording improvement to section 15(a)

Clause 12
New Part 3 inserted

Inserts a new part "**Part 3 - Provisions as to accountability**" after section 19 detailing the TAB's obligations in relation to:

- provision of an annual strategic development plan;
- provision of an annual statement of corporate intent; and
- provision of information to the Minister (reproduced from repealed section 14A (refer clause 10) with only minor modification to remove any limitation on the circumstances under which the Minister may have access to information).

The plans and statements, required to be produced under this part, must be approved by the Minister subject to the concurrence of the Treasurer.

Clause 13
Part heading inserted

Inserts a new part heading "**Part 4 - Totalisator betting**" after section 19A(1).

Clause 14
Section 19A amended

Inserts a new subsection (1a) to authorise the Betting Control Board to disallow the conduct of totalisator betting by the TAB on a sporting event where the Board is of the opinion that such betting would not be in the public interest.

Clause 15
Section 22 amended

Inserts a new subsection (5) to stipulate that where a dividend has been declared by the TAB that dividend is valid notwithstanding that-

- a bet included in the pool relating to that dividend may have been unlawful; or
- the outcome of the event to which the bet relates, once declared, is later disputed.

(This amendment has arisen following advice from the Crown Solicitor's Office suggesting that uncertainty concerning the inclusion in dividend pools of bets that should not have been accepted by the TAB should be clarified.)

Clause 16
New Part 5 inserted

Inserts a new part "**Part 5 - Fixed odds betting**" after section 23A which provides as follows.

1. The TAB may conduct fixed odds betting on (new section 24) -
 - any horse or greyhound race;
 - any sporting event set out in, or prescribed under, section 19A of the Totalisator Agency Board Betting Act in relation to totalisator betting; or
 - any other event as approved by the Betting Control Board;

(Note: Section 19A authorises the TAB to conduct totalisator betting on cricket matches, Australian Rules football fixtures or any other prescribed event. There are currently 16 types of sporting events prescribed under this section including soccer, rugby, golf, tennis athletic events, basketball etc.)

- Clause 16 continued**
2. The TAB may receive fixed odds bets and transmit those bets to a statutory body or other prescribed corporation either in WA or elsewhere, and to pay out winnings on such bets (new section 24A & 24B);
 3. Any unclaimed winnings or refunds relating to fixed odds bets are to be paid to-
 - the Racecourse Development Trust in respect of bets on horse racing (new section 24C(a));
 - the Western Australian Greyhound Racing Authority in respect of bets on greyhound racing (new section 24C(b)); and
 - the TAB Sports Betting Account in respect of bets on sports or other events (new section 24C(c)).
 4. The TAB may, with the approval of the Betting Control Board, make rules for the conduct of fixed odds betting (new section 24D). Any rules approved by the Board must be published in the Government Gazette (new section 24D).

Clause 17
Part heading inserted Inserts a new part heading "**Part 6 - General financial Provisions**" before section 25.

Clause 18
Section 25 amended Consequential amendment to reflect the insertion of new section 3 into the Totalisator Agency Board Betting Tax Act (refer clause 5 of the Totalisator Agency Board Betting Tax Act Amendment Bill 1999).

Clause 19
Section 26 amended Inserts new subsection (da) to allow the TAB to establish and maintain a reserve account for the purpose of supplementing totalisator pools (refer new section 26A inserted by clause 20).

Clause 20
New section 26A inserted Inserts a new section 26A to provide the TAB with the authority to supplement totalisator dividend pools from funds set aside for the purpose. Under this provision the TAB will be able to use promotional tools such as minimum dividend pool sizes or "*bonus jackpots*".

Clause 21
Section 27 amended Amends existing section 27 to more clearly define the persons and organisations with which the TAB may enter into a combined pool arrangement.

Clause 22
New sections 27A and 27B inserted Inserts a new section 27A to provide the TAB with the authority to enter into a contractual arrangement with another fixed odds betting service provider to jointly operate a fixed odds betting system and adopt the rules applicable to that betting system. Such an alliance may be established with another state territory or other authority, or a body corporate prescribed for the purpose. Any betting rules adopted in such an alliance must be provided to the Betting Control Board, published in the Government Gazette and made available for perusal by the betting public.

Inserts a new section 27B to detail how profits from the conduct of fixed odds betting are to be distributed. In principle profits (after expenses) generated by fixed odds betting on horse or greyhound races are to be distributed to the three racing conducts in the same manner as profits from totalisator betting are currently distributed

Clause 22 continued	under section 28 of the Totalisator Agency Board Betting Act.	Clause 28 New section 56A inserted	Inserts new section 56A to specify reporting arrangements on occasions when the Parliament is not sitting.
	Net profit, unclaimed winnings and refunds from fixed odds betting on sporting and other events will be paid into the TAB Sports Betting Fund for distribution as directed by the Minister for Sport and Recreation.	Clause 29 Section 57 amended	Consequential amendment to the regulation making powers to accommodate fixed odds betting.
Clause 23 Section 28 amended	Consequential amendments to sections 28(4) and (5) to include a reference to profit from fixed odds betting in the obligations imposed on the Western Australian Turf Club and Western Australian Trotting Association to distribute certain amounts to country thoroughbred racing and harness racing clubs.	Clause 30 Principal Act -Betting Control Act	Identifies the Betting Control Act 1954 as being the principal act in respect of part 3 of the amendment act.
Clause 24 Part heading inserted	Inserts a new part heading " Part 7 - Miscellaneous " before section 33.	Clause 31 Section 4 amended	Inserts a definition of "fixed odds bet".
Clause 25 Section 33 amended	Amends section 33(a) by inserting two new subsections (ia) and (ib) to stipulate that, in addition to cash, the TAB may accept payment for a bet - <ul style="list-style-type: none"> • by the transfer of the amount using a prescribed method of payment or funds transfer that does not involve the provision of credit by the TAB; or • by cheque in prescribed circumstances. 	Clause 32 Section 17E amended	Exempts a fixed odds bet from provisions governing commission deductions in relation to totalisator betting.
Clause 26 Section 36 amended	Amends section 36 to reflect the change in title of the Commissioner of State Taxation to the Commissioner of State Revenue.	Clause 33 New section 17EA inserted	Inserts a new section 17EA to stipulate that where the TAB operates its own fixed odds betting system, it must set the odds to be offered in respect of participants in a fixed odds betting event so as to establish a prescribed minimum profit margin target in respect of betting on that event.
Clause 27 Section 40 amended	Consequential amendments to section 40 (restrictions relating to broadcast of betting information) to accommodate fixed odds betting.		The purpose of this is to establish parameters aimed at minimising the TAB's exposure to a loss situation from betting on an event at fixed odds, while at the same time not diminishing its ability to set odds that are competitive.
			As an example, the following odds may be set for an event involving four competitors-
			1 to 1 (even money); 2 to 1; 5 to 1; and 9 to 1.

Clause 33 continued

These odds expressed in percentage terms, are-
50%; 33.3%; 16.7%; and 10% respectively.

The sum of these percentages is 110%, which establishes a 10% profit margin on the "book" for the event.

If the prescribed minimum margin for this particular type of event is 10 per cent, then the setting of these odds is lawful. However, this profit margin is only a theoretical target as it assumes that bets will be made on each competitor in proportion to each competitor's respective odds. The actual margin achieved may vary depending on the weight of betting for each competitor.

If the TAB, in response to betting trends, wishes to increase the odds for a particular competitor, it will also need to decrease the odds of another so as to maintain compliance with the prescribed minimum margin.

Alternatively, where a competitor is heavily backed, the TAB may need to reduce the odds on that competitor so as to discourage further bets on that competitor and avoid a high loss exposure. At the same time it would increase the odds on offer for other competitors to both comply with the minimum profit margin target and attract betting to those other competitors to reduce the potential loss situation. This is the nature of fixed odds betting.

**Clause 34
Section 21 amended**

Consequential amendments to section 21 (betting offence provisions) to take account of fixed odds betting activities.

**Clause 35
Section 23 amended**

Consequential amendments to section 23 (unlawful betting provisions) to take account of fixed odds betting activities.

**Clause 36
New section 29
inserted**

Inserts new section 29 to establish an offence provision relating to credit betting by officers, agents or employees of agents, of the TAB. This amendment creates a dedicated offence provision for credit betting rather than relying on the general unlawful betting offence provision contained in section 24 of the Betting Control Act. This change was recommended in the Minister's review of the Betting Control Act tabled in Parliament on 10 March 1999.

**Clause 37
Racecourse
Development Act
Amended**

Consequential amendment to section 10 of the Racecourse Development Act to take account of income received by the Trust from unclaimed fixed odds betting winnings and refunds.