

TURF CLUB LEGISLATION AMENDMENT BILL 1997

EXPLANATORY MEMORANDUM



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GENERAL OUTLINE

This Bill seeks to:

1. amend the Western Australian Turf Club Act to:
 - remove the borrowing limit of \$20,000;
 - to introduce borrowing powers to ensure that the specific borrowing facilities that the WATC will use and may use in the future are catered for appropriately; and
 - insert a clause to ratify all previous loans in excess of \$20,000 and the execution of mortgages over WATC property to secure those facilities.

2. amend the Western Australian Turf Club (Property) Act 1944 to:
 - allow the WATC to dispose of real and personal property; and
 - allow the mortgaging and disposal of Trust land according to the principles set out in the Land Act 1933.

EXPLANATORY NOTES

Long title, naming the Acts to be amended.

Clause 1

Names the amending Act

Clause 2

Sets the commencement date

Clause 3

Names the Principal Act as the Western Australian Turf Club Act 1892.

Clause 4

Amends section 6 to protect the interests of persons who hold a mortgage over land and property vested or demised in the chairman under sections 7 and 8 of the Principal Act.

(Section 7 sets the conditions for the vesting of the racecourse in the name of the chairman of the WATC for the term created by Crown Grant of 11 September 1877 and section 8 allows the Crown to demise lands to the Chairman for any term of years to be held in trust for the club.)

Clause 5

Amends section 10 of the Act to comply with the new provisions (as set out in the new section 28 of the Western Australian Turf Club Act (see clause 8) and amendments to section 4 of the Western Australian Turf Club (Property) Act) (see clause 16) regarding the right to mortgage land held in trust by the Chairman).

Clause 6

Repeals the existing section 26 and replaces it with a new section 26 setting out new borrowing powers as requested by the Club and its banker.

Clause 7

Repeals section 27 of the Principal Act which concerned the power to borrow and is no longer required.

Clause 8

Repeals section 28 of the Act and replaces it with a new section 28 which introduces a power to give security so that the chairman may deal with every aspect of the management of the assets and property of the Club.

The power to give security does not apply to land held in trust by the Club except with the consent of the Governor on the recommendation of the Minister administering the Land Act 1933.

The provisions regarding the right to hold mortgages on and dispose of land held in trust are consistent with sections 33(4) and 33(5) of the Land Act 1933 respectively.

Clause 9

As clause 11 repeals the Third Schedule, reference to the Third Schedule has to be deleted.

Clause 10

Inserts a discretionary provision (subject to section 28(4) of the Western Australian Turf Club Act and section 4(2b)(b) of the Western Australian Turf Club (Property) Act) into section 43 of the Principal Act in case of a racecourse reverting to the Crown through the land granted for use as a racecourse not being used as such for a period of twelve months.

Clause 11

Repeals the Second and Third Schedules of the Principal Act.

These schedules relate to former arrangements for dealing with Club funds that are no longer applicable.

Clause 12

Validates past action under the previous section 26 and previous provisions of section 28 of the Principal Act.

Clause 13

Names the Western Australia Turf Club (Property) Act as the Principal Act

Clause 14

Amends the long title of the Principal Act.

The Western Australian Turf Club (Property) Act was proclaimed in 1944 to resolve doubts about the power of the Turf Club under the Western Australian Turf Club Act to deal with real and personal property for the purposes of the Turf Club.

When the Act was proclaimed it was designed to clarify powers relating to the Turf Club's powers to enter into agreement for the Acquisition by purchase or otherwise of and to acquire by purchase or otherwise and hold and otherwise deal with real and personal property

Clause 15

Amends the preamble to the long title of the Act

Clause 16

(1) Amends section 4 of the Principal Act to enable the chairman to acquire and dispose of real and personal property.

(2) Inserts subsections after section 4(2) of the Principal Act to exclude land held in trust under sections 7 and 8 of the Western Australian Turf Club Act except with the consent of the Governor given on the recommendation of the Minister administering the Land Act 1933 to allow the sale of land held in trust and/or to allow mortgages to be held over trust land.