

NORTHERN TERRITORY OF AUSTRALIA
RACING AND BETTING AMENDMENT ACT 1990

No. 39 of 1990

TABLE OF PROVISIONS

Section

1. Short title
2. Commencement
3. Principal Act
4. Purposes of payments, &c., from Fund
5. New Part:

"PART VIIA - APPEALS

"Division 1 - Preliminary

- "145B. DEFINITIONS
- "145C. APPEAL PROCEDURES UNDER RULES TO NO LONGER APPLY

"Division 2 - Commencement of Appeals

- "145D. COMMENCEMENT OF APPEALS.

"Division 3 - Appeals to Appeal Committee

- "145E. PROCEDURE ON APPEAL TO APPEAL COMMITTEE

"Division 4 - Racing Appeals Tribunal

- "145F. RACING APPEALS TRIBUNAL
- "145G. CHAIRMAN AND DEPUTY CHAIRMAN
- "145H. DELEGATION BY CHAIRMAN
- "145J. PANEL
- "145K. TERM OF APPOINTMENT
- "145M. RESIGNATION OF OFFICE
- "145N. SECRETARY OF TRIBUNAL
- "145P. PROTECTION OF CHAIRMAN AND MEMBERS

"Division 5 - Appeals to Tribunal

- "145Q. PROCEDURE ON COMMENCEMENT OF APPEAL
- "145R. APPOINTMENT OF MEMBERS
- "145S. HEARING OF APPEALS
- "145T. EXPEDITED HEARING
- "145U. APPEAL NOT TO BE WITHDRAWN
- "145W. STAY OF PROCEEDINGS
- "145Y. APPEARANCE BEFORE TRIBUNAL
- "145Z. EVIDENCE
- "145ZA. POWER TO CALL WITNESSES

"145ZB. LEGAL REPRESENTATION
"145ZC. DEFAULT OF APPEARANCE BY APPELLANT
"145ZD. COSTS
"145ZE. POWERS OF TRIBUNAL
"145ZF. DETERMINATION TO BE FINAL
"145ZG. NOTIFICATION OF DETERMINATION"



NORTHERN TERRITORY OF AUSTRALIA

No. 39 of 1990

AN ACT

to amend the *Racing and Betting Act*

[Assented to 22 June 1990]

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as the *Racing and Betting Amendment Act 1990*.

2. COMMENCEMENT

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3. PRINCIPAL ACT

The *Racing and Betting Act* is in this Act referred to as the Principal Act.

4. PURPOSES OF PAYMENTS, &c., FROM FUND

Section 63 of the Principal Act is amended by inserting before paragraph (c) the following:

"(b) to meet the operating costs of the Racing Appeals Tribunal established under section 145F, including payment of remuneration, allowances and expenses of the Chairman and members of that Tribunal;".

Racing and Betting Amendment

5. NEW PART

The Principal Act is amended by inserting after Part VII the following:

"PART VIIA - APPEALS

"Division 1 - Preliminary

"145B. DEFINITIONS

"In this Part, unless the contrary intention appears -

'appeal' means an appeal under this Part;

'appeal committee' means, in respect of an appeal from a decision made under -

- (a) the Rules of Racing - the committee of a principal club;
- (b) the Greyhound Racing Rules - the committee of the greyhound club registered under section 58 and known as the Darwin Greyhound Association of N.T. (Inc.); or
- (c) the Rules of Trotting - the committee of a trotting club registered under section 53 and declared by the Minister to be an appeal committee for the purposes of this Part;

'appellant' means a person or the owner of an animal who has commenced an appeal under section 145D;

'Chairman' means the Chairman of the Tribunal appointed under section 145G(1)(a) and includes the Deputy Chairman appointed under section 145G(1)(b) when acting as the Chairman;

'decision' means a decision made under the Rules of Racing, the Greyhound Racing Rules or the Rules of Trotting;

'member' means a member of the Tribunal appointed under section 145R;

'panel' means the panel of persons appointed under section 145J;

'Secretary' means the Secretary of the Tribunal appointed under section 145N;

'Tribunal' means the Racing Appeals Tribunal established by section 145F.

Racing and Betting Amendment

"145C. APPEAL PROCEDURES UNDER RULES TO NO LONGER APPLY

"(1) Notwithstanding anything to the contrary contained in the Rules of Racing, the Greyhound Racing Rules or the Trotting Rules, an appeal shall not, after the commencement of the *Racing and Betting Amendment Act 1990*, be made under those Rules, and an appeal from a decision after that commencement shall be made, conducted, heard and determined in accordance with this Part.

"(2) Where, immediately before the commencement of the *Racing and Betting Amendment Act 1990*, the Rules of Racing of a principal club prescribed rules and procedures applying to appeals under those Rules, the rules and procedures so prescribed shall, on that commencement, be the procedures and rules for the purposes of section 145E of the appeal committee of that club (to the extent that they are not inconsistent with this Act) until the appeal committee determines otherwise under that section.

"Division 2 - Commencement of Appeals

"145D. COMMENCEMENT OF APPEALS

"(1) A person or the owner of an animal aggrieved by a decision of a steward or an official of a club made in respect of that person or that animal, as the case may be, may, subject to this Part, appeal from the decision -

- (a) to the appropriate appeal committee; or
- (b) where the decision of the steward or official was -
 - (i) to impose a fine greater than \$1,000 or such other amount as may be prescribed;
 - (ii) to impose on the person a suspension or disqualification for a period longer than 3 months;
 - (iii) subject to subsection (3)(c), to impose on an animal a disqualification or suspension for a period longer than 3 months;
 - (iv) to warn off the person for more than 12 meetings; or
 - (v) to impose on the person a fine of more than \$500 or such other amount as may be prescribed together with a suspension or disqualification for longer than one month,

to the Tribunal.

Racing and Betting Amendment

"(2) A person or the owner of an animal aggrieved by a decision of -

- (a) a club; or
- (b) the Commission,

made in respect of that person or that animal, as the case may be, may, subject to this Part, appeal from the decision to the Tribunal.

"(3) Notwithstanding subsection (1) or (2), an appeal shall not lie from a decision -

- (a) imposing a fine on a person of not more than \$100 or such other amount as may be prescribed;
- (b) concerning the eligibility of an animal to race or the conditions under which an animal can race;
- (c) disqualifying or suspending an animal from racing (except where that disqualification or suspension is in conjunction with a penalty imposed on a person); or
- (d) where the Rules under which the decision was made prohibit an appeal from such a decision.

"(4) An appeal shall be commenced by lodging a notice of appeal and the prescribed fee with, where the appeal is to -

- (a) an appeal committee, the secretary of the committee; or
- (b) the Tribunal, the Secretary,

not later than 7 days after notice of the decision by which a person is aggrieved has been delivered to that person.

"(5) Notwithstanding anything to the contrary in this Part, an appeal by a person which -

- (a) but for this subsection would be an appeal to which subsection (1)(a) applies; and
- (b) arises out of the same incident or incidents as an appeal by the person that, in accordance with this section, is required to be made to the Tribunal,

shall be made to, and heard and determined by, the Tribunal.

Racing and Betting Amendment

"Division 3 - Appeals to Appeal Committee

"145E. PROCEDURE ON APPEAL TO APPEAL COMMITTEE

"(1) An appeal committee shall hear and determine an appeal in accordance with the procedures and rules determined from time to time by the appeal committee, which may include but are not limited to -

- (a) the suspension of the application of the decision appealed against pending the determination of an appeal;
- (b) the representation of the parties to an appeal;
- (c) the manner in which evidence is to be heard or received by an appeal committee; and
- (d) the calling of witnesses.

"(2) On the hearing of an appeal by an appeal committee, the appeal committee may -

- (a) adjourn the appeal;
- (b) uphold, reverse or vary a decision appealed against;
- (c) set aside, vary, decrease or increase a fine or penalty imposed;
- (d) refer the matter for rehearing to the steward or the official of the club whose decision is appealed against;
- (e) order that the whole or part of the fee lodged under section 145D be refunded; or
- (f) make such other order (including as to costs) as it thinks fit.

"(3) A determination of an appeal committee shall be final and conclusive.

"Division 4 - Racing Appeals Tribunal

"145F. RACING APPEALS TRIBUNAL

"(1) There is established, for the purposes of this Act, a Tribunal to be known as the Racing Appeals Tribunal.

"(2) The Tribunal shall consist of a Chairman and 2 members.

Racing and Betting Amendment

"145G. CHAIRMAN AND DEPUTY CHAIRMAN

"(1) The Minister shall appoint -

- (a) a person to be the Chairman; and
- (b) a person to be the Deputy Chairman,

of the Tribunal.

"(2) A person appointed under subsection (1) shall be -

- (a) a Judge of the Supreme Court;
- (b) a Magistrate; or
- (c) a legal practitioner.

"(3) The Deputy Chairman shall perform the duties of the Chairman during the absence or inability to act of the Chairman.

"(4) The Chairman shall preside at all hearings of the Tribunal.

"145H. DELEGATION BY CHAIRMAN

"(1) The Chairman may, by instrument in writing, delegate to the Deputy Chairman any of the powers and functions of the Chairman under this Part, other than this power of delegation.

"(2) A power or function delegated under this section, when exercised or performed by the Deputy Chairman shall, for the purposes of this Part, be deemed to have been exercised or performed by the Chairman.

"(3) A delegation under this section does not prevent the exercise of a power or the performance of a function by the Chairman.

"145J. PANEL

"(1) There is, for the purposes of this Act, a panel to be constituted by not less than 6 persons appointed by the Minister.

"(2) The Minister shall not appoint a person to the panel unless satisfied that the person has a sound knowledge of greyhound-racing, horse-racing or trotting.

"145K. TERM OF APPOINTMENT

"A person appointed under section 145G or 145J holds office, subject to section 145M, for such period as is determined by the Minister but the person is eligible to be re-appointed.

Racing and Betting Amendment

"145M. RESIGNATION OF OFFICE

"A person appointed under section 145G or 145J may resign the appointment by notice in writing delivered to the Minister.

"145N. SECRETARY OF TRIBUNAL

"There shall be a Secretary of the Tribunal who shall be an employee appointed by the Commission.

"145P. PROTECTION OF CHAIRMAN AND MEMBERS

"No action or proceeding, civil or criminal, shall lie against the Chairman or a member for or in relation to an act or thing done or omitted to be done in good faith by -

- (a) the Chairman or the member in his or her capacity as Chairman or a member of the Tribunal; or
- (b) the Tribunal, in the exercise or purported exercise of a power, or the performance or purported performance of a function, under this Act.

"Division 5 - Appeals to Tribunal

"145Q. PROCEDURE ON COMMENCEMENT OF APPEAL

"(1) The Secretary, on receiving a notice of appeal under section 145D, shall -

- (a) forward the notice to the Chairman and a copy to the steward, official, club or the Commission, as the case may be, whose decision is the subject of the appeal; and
- (b) serve on the appellant a transcript of the evidence taken at the hearing in respect of the decision appealed against.

"(2) An appellant shall, not later than 7 days after receiving the transcript of evidence furnished under subsection (1)(b), lodge with the Secretary a notice in writing of the grounds of appeal, and, except by leave of the Tribunal, the appeal shall be limited to those grounds.

"(3) The Secretary shall, on receiving a notice under subsection (2), forward a copy of it to the Chairman and the steward, official, club or the Commission, as the case may be, whose decision is the subject of the appeal, and shall forward to the Chairman a copy of the transcript of the evidence taken at the hearing.

Racing and Betting Amendment

"(4) Subject to subsection (5), the date, time and place for the hearing of an appeal shall be fixed by the Chairman, and not less than 7 days written notice of that date shall be given by the Secretary to the appellant, the steward, official, club or the Commission, as the case may be, whose decision is the subject of the appeal and to such other persons, if any, as the Chairman may direct.

"(5) The Tribunal shall commence hearing an appeal not later than 28 days after the lodging of the notice of the grounds of appeal under subsection (2).

"(6) Notwithstanding this section, the Tribunal may extend by order any period of time prescribed by this section if, in the opinion of the Tribunal, special circumstances so require.

"145R. APPOINTMENT OF MEMBERS

"(1) Subject to subsection (2), the Chairman shall, as soon as practicable after receiving the notice of appeal forwarded under section 145Q(1), appoint 2 of the persons appointed to the panel to be the members of the Tribunal for the purpose of hearing and determining the appeal to which the notice relates.

"(2) A person shall not be appointed a member under subsection (1) unless that person has a sound knowledge of greyhound-racing, horse-racing or trotting, as the case requires, under the Rules of which the decision the subject of the appeal was made.

"145S. HEARING OF APPEALS

"(1) Subject to this Part, an appeal shall be heard at a place and time determined by the Tribunal.

"(2) Unless the Tribunal determines otherwise, a hearing of an appeal shall be open to the public.

"(3) Subject to this Part, an appeal shall be heard and determined in accordance with the procedures and rules determined from time to time by the Tribunal.

"145T. EXPEDITED HEARING

"(1) Where the Tribunal is of the opinion that an appeal should be heard and determined as a matter of urgency, it may, with the concurrence of the appellant -

(a) dispense with a requirement of; or

(b) abridge a time prescribed by,

section 145Q.

Racing and Betting Amendment

"(2) Where the Tribunal makes an order under subsection (1) -

- (a) the Tribunal may rely on such evidence as is available to it concerning the hearing in respect of the decision appealed against; and
- (b) the appellant shall lodge a notice of the grounds of appeal in such manner and within such time as the Tribunal directs and, except by leave of the Tribunal, the appeal shall be limited to the grounds specified in that notice.

"145U. APPEAL NOT TO BE WITHDRAWN

"An appeal shall not be withdrawn without leave of the Tribunal and, where leave to withdraw an appeal is granted, the Tribunal may impose such conditions as to costs or otherwise as it thinks fit.

"145W. STAY OF PROCEEDINGS

"(1) Subject to subsection (2), the Chairman may, pending the determination of an appeal, order, subject to such conditions as the Chairman thinks fit, a stay of the execution of the penalty, decision or order appealed against.

"(2) Before making an order under subsection (1) the Chairman shall invite submissions from the appellant and the steward, official, club or the Commission, as the case may be, whose decision is the subject of the appeal and shall take into account any submissions received in determining whether or not to make an order under that subsection.

"145Y. APPEARANCE BEFORE TRIBUNAL

"The appellant, the steward, official, club or the Commission, as the case may be, whose decision is the subject of the appeal and any other person given notice under section 145Q(4) shall be entitled -

- (a) to be present at the hearing; and
- (b) subject to this Part, where the Tribunal thinks fit, to be heard or to call evidence.

"145Z. EVIDENCE

"(1) Subject to this Part, on the hearing of an appeal the Tribunal shall not consider any other evidence, other than that adduced at the hearing in respect of the decision appealed against, unless satisfied that the evidence is relevant and that there is good reason why it was not adduced at that hearing.

Racing and Betting Amendment

"(2) On the hearing of an appeal the Tribunal is not bound by the rules of evidence and may inform itself of any matter in such manner as it thinks fit.

"(3) Except with the leave of the Tribunal, evidence of the hearing of an appeal shall be given orally.

"145ZA. POWER TO CALL WITNESSES

"(1) The Tribunal may direct the Secretary -

(a) of its own motion; or

(b) on the application of the appellant, the steward, official, club or the Commission, as the case may be, whose decision is the subject of the appeal or a person given notice under section 145Q(4),

to issue and serve on a person a summons to appear before the Tribunal to give evidence or to produce such documents as are specified in the summons, and the Tribunal may make an order for the manner of service of a summons.

"(2) A person served with a summons under subsection (1) who, without lawful excuse, disobeys that summons is guilty of an offence.

Penalty: \$500.

"145ZB. LEGAL REPRESENTATION

"(1) An appellant may be represented by a legal practitioner or, with the approval of the Tribunal, by another person where notice of such representation is given to the Secretary by the appellant not later than the day on which the appellant lodges the notice required under section 145Q(2).

"(2) On receiving a notice under subsection (1) the Secretary shall, in writing, notify the steward, official, club or the Commission, as the case may be, whose decision is the subject of the appeal and any other person given notice under section 145Q(4) that the appellant is to be represented by a legal practitioner or another person, as the case may be, and that they may be represented, either by a legal practitioner or another person, if they desire.

"145ZC. DEFAULT OF APPEARANCE BY APPELLANT

"The Tribunal may determine an appeal where the appellant fails to attend at the hearing on being satisfied that the appellant has been served with a notice under section 145Q(4).

Racing and Betting Amendment

"145ZD. COSTS

"(1) The Tribunal may make such order as to the costs of an appeal as it thinks fit.

"(2) Costs ordered by the Tribunal to be paid under subsection (1) may be recovered as if the order of the Tribunal were a judgment of the Local Court, and the order shall be entered as a judgment of that Court and shall be enforced accordingly.

"145ZE. POWERS OF TRIBUNAL

"On the hearing of an appeal, the Tribunal may -

- (a) adjourn the appeal;
- (b) uphold, reverse or vary a decision appealed against;
- (c) set aside, vary, decrease or increase a fine or other penalty imposed;
- (d) refer the matter for rehearing to the steward, official, club or the Commission whose decision is appealed against;
- (e) order that the whole or part of the fee lodged under section 145D be refunded; or
- (f) make such other order as it thinks fit.

"145ZF. DETERMINATION TO BE FINAL

"A determination of the Tribunal is final and conclusive.

"145ZG. NOTIFICATION OF DETERMINATION

"On the determination of an appeal, the Tribunal shall notify the appellant, the steward, official, club or the Commission, as the case may be, whose decision was the subject of the appeal and any other person given notice under section 145Q(4) of its determination."
