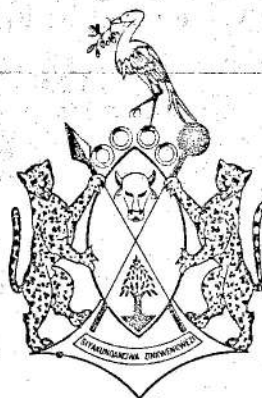


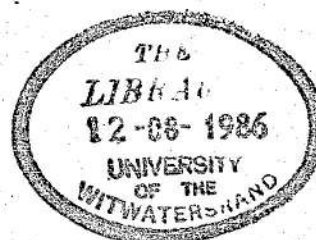
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DEPARTMENT OF FINANCE AND ECONOMIC DEVELOPMENT

GOVERNMENT NOTICE No. 51

IT IS HEREBY NOTIFIED THAT THE PRESIDENT HAS
ASSENTED TO THE FOLLOWING ACT WHICH IS HEREBY
PUBLISHED FOR GENERAL INFORMATION:-

HORSE RACING AND BETTING ACT, 1986

ACT No. 10 OF 1986

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HORSE RACING AND BETTING ACT, 1986

ACT

To consolidate and amend the laws relating to horse racing in Ciskei, the restriction and control of betting and the imposition of taxation in respect of horse racing and betting on horse races and to provide for matters incidental thereto.

(English text signed by the President. Assented to on 16 July 1986).

BE IT ENACTED by the National Assembly of the Republic of Ciskei, as follows:-

1. Definitions. - In this Act, unless the context otherwise indicates -

"approved applicant" means any person or association of persons (other than a non-proprietary club) approved by the Minister;

"approved premises" means any premises approved by the Minister in terms of section 16 (1) (a);

"authorized officer" means any officer authorized by the Director-General in terms of section 21 (1) to exercise or to perform any power, function or duty under this Act;

"away race" means any horse race which is not a local race;

"bet" means to stake any money or valuable thing by or on behalf of any person, or expressly or impliedly to undertake, promise or agree to stake by or on behalf of any person, any money or valuable thing on any event or contingency of or relating to any horse race, foot race, cycle race, motor race, boat race or any shooting, hunting, running or boxing contest or prize fight or any cricket match, football match or any other sport or game usually attended by members of the public;

(a) that the staking of money or any valuable thing which will be or form part of the prize to be gained by persons who take part in, or by person owning horses which take part in, any such race or contest (not being a prize fight) shall not, for the purposes of this Act, be regarded as betting, and

(b) that for the purposes of this definition the expressions "foot race", "motor race", "boat race" or "shooting, hunting, running or boxing contest" shall only include a race or contest of which the date has been fixed beforehand and of which the scene is a place to which the public or the members of any club or association have access or which the public or such members frequent or to which they come by invitation;

"bookmaker" means any person who carries on business as a bookmaker or turf commission agent or earns or endeavours to earn his living wholly or partly by laying bets to members of the public or other bookmakers directly or indirectly;

"Ciskei" means the Republic of Ciskei;

"committee" means the committee of a Tattersell club constituted under section 6;

"Director-General" means the Director-General : Department of Finance and Economic Development.

"District" means a magisterial district;

"fixed odds bet" means a bet laid by a licensed bookmaker on one or more events or contingencies in respect of one or more horse races where fixed odds are agreed upon when such bet is laid;

"Gazette" means the Government Gazette of the Republic of Ciskei;

"Government" means the Government of Ciskei;

"horse race" means any horse race whatsoever;

"Jockey Club" means any body exercising or performing in Ciskei powers or functions similar to those of the Jockey Club of South Africa;

"lay", in relation to a bet, means the conclusion of an agreement to bet by a licensed bookmaker;

"licensed bookmaker" means a bookmaker who is the holder of a licence issued in terms of section 7;

"Local race" means any horse race inside Ciskei;

"Minister" means the Minister of Finance and Economic Development;

"non-proprietary club" means any association of persons –

- (a) which has been formed solely for the purposes of conducting horse races;
- (b) which applies its profits (if any) or other income solely to promoting horse racing;
- (c) from which nobody receives any dividend or other pecuniary benefit or gain;

Provided that nothing in this paragraph contained shall be construed as prohibiting the payment by such association of –

- (i) running expenses;
- (ii) grants for benevolent, charitable, educational, national, patriotic, philanthropic or religious purposes or for amateur sport; or
- (iii) interest and redemption on loans and debentures raised or issued for the purposes of acquiring the assets necessary for conducting horse races; and
- (d) the constitution of which provides that, upon its disestablishment or liquidation, the moneys standing to its credit shall not be distributed amongst its members but shall be paid to the Government for the promotion of amateur sport;

"open bet" means a bet, other than a totalisator bet, laid by a licensed bookmaker on one or more events or contingencies in respect of one or more horse races where no fixed odds are agreed upon when such bet is laid;

"police official" means a member of the Police Force established by or under Section 2 of the Police Act, 1983 (Act 32 of 1983);

"public holiday" means any public holiday established by the Public Holidays Act, 1981 (Act 3 of 1981), which falls on a week day but excluding any public holiday mentioned in the Schedule 2 of that Act;

"race card" means any document or list indicating wholly or partly the events on the programme or intended programme of any race meeting or the horses taking part in any such events or the odds or limits quoted or bets laid or to be laid in respect of such horses and any betting from or betting list but does not include –

- (a) a newspaper in which is published the entries, weights and other particulars in connection with such events;
- (b) the official publication by any club or racing association of a programme or intended programme of a race meeting and other particulars in connection therewith;
- (c) any document, list, form or notice containing the entries, weights and other particulars relating to such events which is printed, issued or distributed by or on behalf of the holder of a race course licence, the holder of a totalisator licence or a licensed bookmaker and which, in the case of such bookmaker, has been approved by the Tattersall club of which such bookmaker is a member; and
- (d) any document or form prescribed by regulation;

"race course" means any race course established and licensed in terms of this Act;

"race course licence" means the licence issued in terms of Section 3;

"race day" means the period from ten o'clock before midday to seven o'clock after midday on any public holiday and, in relation to any particular racing area, includes such period on any other week day which has been allocated to that racing area as a race day in terms of Section 2(2);

"race meeting" means any gathering of the public or of the members of any association of persons to attend a horse race or horse races on a race course if the date and place of holding the same have been notified by public advertisement or private invitation, and shall include one day's racing only;

"racing area" means racing area referred to in Section 2 (1);

"racing club" means any association of persons which is the holder of a race course licence;

"receiver of revenue" means a receiver of revenue in Ciskei;

"regulation" means any regulation made, or deemed to be in force, under this Act;

"Revenue Fund" means the revenue fund referred to in Section 77 of the Republic of Ciskei Constitution Act, 1981 (Act 20 of 1981);

"take" in relation to a bet, means the conclusion of an agreement to bet with a licensed bookmaker;

"take-back bet" means a bet taken by one licensed bookmaker –

- (a) from any other licensed bookmaker, whether inside or outside Ciskei, or
- (b) on a licensed totalisator,

where such bet is taken solely for the *bona fide* purpose of covering the whole or any portion

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of his commitment in respect of any bet or bets made by him on a certain horse in a particular horse race, and for the purposes of this definition "commitment" means the amount which such bookmaker will have to pay out or which he expects to pay out in respect of a certain horse in a particular horse race irrespective of the stakes held by him in respect of bets on such a horse;

"**Tattersall club**" means any association of persons established for the purpose of laying, taking and settling bets at a place other than a race course;

"**Tattersall rooms**" means any place or places approved by the Minister in terms of Section 6 (3);

"**this Act**" includes the regulations;

"**totalisator**" means any instrument, machine, contrivance or apparatus for registering or indicating the number or amount or the number and amount of bets on horses in any horse race or combination of horse races and which is operated for the purposes of –

(a) a scheme or system of betting in which the aggregate amount staked on the horses in such horse race or combination of horse races, after deduction from such aggregate amount of any amounts which may lawfully be deducted therefrom, whether under this Act or by agreement, is divided amongst the persons who have made winning bets on any horse or horses in such horse race or combination of horse races in proportion to the amounts staked by those persons in respect of such winning bets; or

(b) any similar scheme or system of betting;

"**totalisator bet**" means a bet on a totalisator;

"**totalisator licence**" means a licence issued in terms of Section 16 (1);

"**Treasury**" means the Minister of Finance and Economic Development and includes any officer in his department acting under his authority.

2. Institution of racing areas and allocation of race days. - (1) Unless the Minister has by notice in the *Gazette* determined that any two or more districts shall be one racing area, every district shall be a racing area and in any such racing area –

(a) a race course may, subject to the provisions of this Act, be established and licensed; and

(b) race meetings may be held on a race course on any race day.

(2) Upon the request of the holder of a race course licence the Minister may from time to time allocate to the racing area concerned any week days other than public holidays as race days for that racing area: Provided that the total number of race days (including public holidays) for any racing area shall not exceed seventy in any year.

(3) Whenever a race meeting within any racing area has been fixed for any particular race day and the weather or any unforeseen or unavoidable circumstance prevents or renders undesirable the holding or continuation of such meeting on such day, the Minister or any person authorized by him may grant permission in writing or by telegraph for the holding or continuation of such meeting on a race course within such racing area on a day other than a race day and such permission shall be a defence to any charge under Section 4 (a).

3. Licensing of race course. - (1) Subject to the provisions of this Act the Minister may, on such conditions as he may determine from time to time, grant a race course licence to, or authorize the renewal of a race course licence in favour of, any association of persons –

(a) which is a non-proprietary club and the holder of land in Ciskei on which, under the laws governing the use and occupation of such land, race meetings may lawfully be held;

(b) whose proposed constitution as a racing club is acceptable to the Minister; and

(c) whose rules and regulations make due provision for the settlement of any disputes which may arise between members of the public and bookmakers in regard to bets laid and taken on the race course in question.

(2) Every person, who applies for the grant of a race course licence on behalf of an association referred to in subsection (1), shall –

(a) make his application to the Minister through the Director-General;

(b) not less than twenty-one days before the date upon which he lodges his application for the grant of such licence (as distinct from the renewal or transfer thereof) by notice published in a newspaper circulating in the district in which the proposed race course is to be established –

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- (i) make known his intention so to apply; and
- (ii) call upon any person or persons who object to the grant of a race course licence, to lodge such objection together with the grounds thereof with the Director-General not later than ten days after the publication of such notice;
- (c) furnish written proof to the Director-General that the proposed race course –
 - (i) will, upon completion, make adequate provision for the accommodation and convenience of the public; and
 - (ii) will comply substantially with such rules and regulations of the Jockey Club as are acceptable to the Minister.

(3) Every race course licence –

- (a) shall be issued, and may at any time be transferred on application, to and in the name of the secretary for the time being of the association of persons concerned;
- (b) shall be valid until the thirty-first day of December of the year in respect of which it was issued;
- (c) may be renewed from time to time;
- (d) shall be produced on the demand of any authorised officer or any police official of or above the rank of sergeant;
- (e) may be suspended or cancelled by the Minister if, after due enquiry, he is satisfied that the holder of the licence has contravened or failed to comply with any provision of this Act or the conditions of such licence or any applicable rule or regulation of the Jockey Club; and
- (f) shall forthwith lapse if the holder of such licence ceases to be a non-proprietary club.

(4) Where a race course licence has been granted to any association of persons under the provisions of this section, any member of any committee of such association who exacts, takes or accepts any salary, fee or reward whatsoever for or on account of anything done by him on behalf of such association; shall be guilty of an offence: Provided that any member of a committee as aforesaid may be reimbursed any expense lawfully incurred by him on behalf of such association.

(5) (a) Notwithstanding anything in subsection (4) contained, the holder of a race course licence may levy a fee not exceeding six and one-half percent of the difference contemplated in section 9 in respect of all bets, except bets on away races, laid and taken on the race course in respect of which such race course licence has been issued: Provided that where such fee is collected by the committee of a Tattersall Club, such committee may deduct from the aggregate amount of the fees so collected a collection fee of two percent of such aggregate amount.

(b) Any holder of a race course licence who levies or permits the levying of a fee exceeding the percentage contemplated in paragraph (a) shall be guilty of an offence.

4. Prohibition of racing except upon race course on race day. - There shall be guilty of an offence any person who –

- (a) save as provided in section 5 and except upon a race course and on a race day, takes part in, or aids and abets any other person to take part in, a horse race; or
- (b) prints, publishes, processes, sells or offers for sale or in any manner circulates or distributes a race card.

5. Saving as regards certain horse races. - (1) Nothing in Sections 2, 3 and 4 contained shall prohibit the organizing or holding of any sports meeting, gymkhana, exhibition or agricultural show in the programme of which is included one or more horse races or the taking part in any such horse race, notwithstanding the fact that such sports meeting, gymkhana, exhibition or show is held on a day other than a race day or upon land not licensed as a race course.

6. Establishment of Tattersall clubs and rooms. - (1) The Minister may, subject to such conditions as he may from time to time determine, authorize the establishment of not more than one Tattersall club for any district.

(2) (a) The management and control of a Tattersall club shall vest in a committee consisting of three members appointed by the Minister, two members appointed by the Tattersall club and two members appointed by any racing clubs established in the racing area in which the principal place of business of the Tattersall club is situated: Provided that where there are no such racing clubs in such area the Minister shall appoint four members, and the Tattersall club shall appoint three members, to such committee.

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(b) The members of the aforesaid committee shall hold office for a period of two years from the date of its first meeting and the committee shall thereafter be reconstituted, and any casual vacancy filled, in the manner provided in paragraph (a).

(3) Notwithstanding anything to the contrary in any other law contained, the Minister may, subject to such conditions as he may from time to time determine, authorize a Tattersall club to keep open, on such days and at such times as may be prescribed, a place or places to be approved by the Minister wherein or whereupon bets may be laid, taken and settled on the result of any horse race.

7. Bookmaker's licence. - (1) No person shall carry on the business of a bookmaker unless -

(a) if he wishes to carry on such business in a Tattersall room, he is the holder of a bookmaker's Tattersall licence for the district in question; or

(b) if he wishes to carry on such business on a race course, he is the holder of a bookmaker's race course licence.

(2) Any bookmaker's licence shall, unless earlier cancelled or suspended as hereinafter provided, be valid up to and including the thirty-first day of December of the year for which it is issued and, subject to the provisions of subsection (4) of this section and section 8 shall be obtainable from a receiver of revenue on payment of a licence fee of one hundred rand and, in the case of a bookmaker's Tattersall licence, upon production to the receiver of revenue of a certificate by the Tattersall club, in whose Tattersall rooms such business is to be carried on, approving of the granting of such licence: Provided that, where liability for any such licence arises on or after the first day of July in any year, the licence fee shall be reduced by one-half.

(3) A bookmaker's race course licence shall entitle the holder thereof -

(a) to carry on the business of a bookmaker at any race meeting in Ciskei; and

(b) to carry on his occupation on a race course during a race meeting in respect of a race run elsewhere than on such race course or which is to be run on such race course during some other race meeting;

Provided that nothing in this subsection contained shall be construed as derogating from any right possessed by the Jockey Club or by any duly constituted racing club to prohibit any person from carrying on business as a bookmaker.

(4) No bookmaker's licence shall be issued in the name of any partnership, company or other association of persons: Provided that nothing herein contained shall be so construed as to prevent the carrying on of the business of a bookmaker in partnership by two or more licensed bookmakers.

(5) The provisions of sections 8, 9 and 11 shall be deemed to be conditions of any licence issued in terms of this section.

(6) There shall be guilty of an offence any person who -

(a) without being the holder of the appropriate licence, carries on the business of a bookmaker; or

(b) acts as an intermediary between any other person (not being a licensed bookmaker) and a bookmaker, whether such bookmaker is the holder of a licence under this Act or not; or

(c) not being a licensed bookmaker or a member of the Tattersall club authorized in terms of this Act to keep open any Tattersall rooms, bets in such Tattersall rooms on the result of any horse race; or

(d) being a licensed bookmaker -

(i) contravenes any condition of his licence; or

(ii) lays with any person on a race course, in respect of a local race, any bet other than a fixed odds bet; or

(iii) lays with any person on a race course, in respect of an away race, any bet other than a fixed odds bet or an open bet; or

(iv) lays with any person in any Tattersall rooms any bet other than a fixed odds bet or an open bet; or

(v) lays a bet in any Tattersall rooms to any person (other than a licensed bookmaker) who is not a member of the Tattersall club authorized in terms of this Act to keep open such Tattersall rooms.

8. Taxes on horse racing and betting. - There shall be charged, levied and collected for the benefit of the Revenue Fund the taxes imposed by Sections 9 and 10.

9. Taxes payable by bookmaker. - Subject to the provisions of Section 11, every licensed bookmaker shall pay a tax at the rate -

(a) of three and one-half percent of the sum arrived at by deducting from the aggregate amount laid by him on the race courses in respect of bets, except bets on away races, on all horses in all races or combinations of races during any day and which bets have been finally determined -

- (i) the total amount laid by him in respect of bets which he has lost on any such race or combination of races, and
- (ii) the total amount of take-back bets which he has lost in respect of any horse or horses in any such race or combination of races and which were staked or taken on any licensed totalisator in Ciskei or with any other licensed bookmaker inside or outside Ciskei;
- (iii) the total amount on which the tax referred to in Section 10 is calculated; and

(b) of ten percent of the sum arrived at by deducting from the aggregate amount laid or deemed to have been laid by him in any Tattersall rooms in respect of bets on all horses in all races or combinations of races during any week and which bets have been finally determined -

- (i) the total amount laid by him in respect of bets which he has lost on any such race or combination of races, and
- (ii) the total amount of take-back bets which he has lost in respect of any horse or horses in any such race or combination of races and which were staked or taken on any licensed totalisator in Ciskei or with any other licensed bookmaker inside or outside Ciskei;
- (iii) the total amount on which the tax referred to in Section 10 is calculated.

10. Tax payable by better. - Every person who has taken a bet with a licensed bookmaker shall pay -

(a) if he has taken such bet (not being a bet on an away race) on a race course, a tax at the rate of three and one-half percent, and

(b) if such bet has, or is deemed to have, been laid in any Tattersall rooms a tax at the rate of ten percent,

of the amount, excluding the amount staked in respect of such bet: Provided that -

- (i) whenever such tax is payable by any such person, the licensed bookmaker who is liable to pay such person the sum on which such tax has become due shall deduct from such sum the amount of such tax and pay it over to the Revenue Fund; and
- (ii) such licensed bookmaker shall not be required to pay over to the Revenue Fund in respect of the total of such taxes in respect of any horse race any greater amount in tax than would be payable if such tax was calculated at the applicable percentage referred to in paragraph (a) or (b), as the case may be, of an amount arrived at by deducting from the aggregate of the sum on which such tax is due the aggregate amount won by such bookmaker on take-back bets in respect of such race.

11. Limitation on taxes payable by bookmaker. - No licensed bookmaker shall be required to pay over to the Revenue Fund in respect of the total of his taxes mentioned in Section 9 any greater amount in tax than would be payable if such taxes were calculated at the applicable percentage mentioned therein of the difference between the aggregate amount laid by such bookmaker in respect of all bets and the total amount laid by him in respect of bets which he has lost.

12. Bookmaker to furnish security. - (1) Every licensed bookmaker shall, before commencing or continuing to carry on the business of a bookmaker, deposit or lodge with the nearest receiver of revenue as security for the payment of all fees and taxes due or which may become due under this Act such sum of money, not being less than two hundred rand or securities of a like value, as the Minister may determine in respect of such bookmaker.

(2) The Minister may from time to time order that the security referred to in subsection (1) be increased or decreased and the bookmaker concerned shall comply with such order not later than seven days after having been notified thereof: Provided that the amount of such security shall at no time be less than two hundred rand.

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(3) A receiver of revenue shall, without delay apply any security lodged with him under subsection (1) in payment of any fees or taxes owing by the bookmaker concerned and shall forthwith thereafter advise the Director-General of the fact.

(4) Any bookmaker who contravenes or fails to comply with any provision of subsection (1) or (2) or any order thereunder shall be guilty of an offence.

(5) Whenever a licence issued in terms of Section 7 expires or is cancelled or suspended as provided for in this Act, the receiver of revenue with whom any sum of money is deposited as security under subsection (1) shall, after compliance with the provisions of subsection (3), if such provisions are applicable, refund the balance of such money to the bookmaker concerned.

13. Guarantee by bookmaker. - (1) Before commencing business, and thereafter not later than the first day of January in each year, every licensed bookmaker shall furnish to the Minister a written guarantee in the form and in the amount approved by the Minister indemnifying any person who has a winning bet or bets with such bookmaker against financial loss up to an amount of four thousand rand in respect of any horse race where such bet or bets have been laid and taken in any Tattersall rooms and up to an amount of four thousand rand in respect of any race meeting where such bet or bets have been laid and taken on a race course. In the event of default of payment by such bookmaker. Provided that the Minister may, whenever he deems it necessary, order that the amount of such guarantee be increased or decreased where upon such bookmaker shall, not later than fourteen days after having been notified of such order, cause the amount so guaranteed to be increased or decreased in accordance with such order.

(2) Any bookmaker who contravenes, or fails to comply with any order under provision of subsection (1) shall be guilty of an offence.

14. Bookmaker's returns. - (1) Not later than Tuesday in each week every bookmaker or partnership of bookmakers shall, in respect of his or its betting transactions and the winnings of any other person from him or it during the preceding week -

(a) furnish to the nearest receiver of revenue, in such form as the Director-General may from time to time approve, a return verified by an affidavit or solemn declaration made by such bookmaker or a partner in such partnership, as the case may be, and

(b) pay to such receiver any tax due and payable in terms of Section 8, 9 and 10: Provided that, if there have been no betting transactions during any such week, such return shall nevertheless be furnished and shall state that no such transactions have taken place.

(2) Any bookmaker or partnership of bookmakers who fails to comply with any provision of subsection (1) or who furnishes any false return thereunder shall be guilty of an offence.

15. Cancellation or suspension of bookmaker's licence. - (1) If -

(a) a licensed bookmaker is convicted of any offence under this Act or of theft or fraud or any other offence involving dishonesty, or

(b) the security lodged by a licensed bookmaker is dealt with as provided in Section 12 (3),

the Minister may cancel any or all of the licences issued to such bookmaker under Section 7 or, subject to such conditions as he may determine, suspend any or all of such licences indefinitely or for such period as he may deem fit.

(2) No refund of any licence fee or part thereof shall be made to any person whose licence has been cancelled or suspended under subsection (1) nor shall any such licence -

(a) which has been cancelled, or which has been suspended for an indefinite period, be re-issued to or renewed in favour of the previous holder except with the prior permission in writing of the Minister; or

(b) which has been suspended for a fixed period, be restored to the holder or renewed before the expiration of the said period.

(3) The holder of a licence which has been cancelled or suspended under subsection (1) shall, not later than seven days after having been notified thereof in writing by the Director-General, surrender such licence to the Director-General.

(4) Any person who fails to comply with the provisions of subsection (3) shall be guilty of an offence.

16. **Totalisator licence and tax on totalisator.** - (1) (a) The Minister may, upon the written application of the holder of a race course licence or, in any racing area in which there is no race course, of any approved applicant, issue to such holder or, as the case may be, such approved applicant a totalisator licence to operate a totalisator upon any one or more premises which the Minister may approve and to accept stakes in respect of such totalisator on any local or away race.

(b) Such totalisator licence shall be issued subject to such conditions and rules, including in the case of approved applicant the condition referred to in paragraph (c), as the Minister may prescribe and -

(i) may be cancelled at any time if default is made in complying with any such condition or rule or with any provision of this section or if the totalisator is operated or such stakes as aforesaid are accepted upon any premises not so approved; and

(ii) shall, where such licence has been issued to an approved applicant, be deemed to have been withdrawn forthwith upon the grant in terms of Section 3 of a race course licence in the racing area concerned to the extent to which such licence authorizes the operation of a totalisator on approved premises in such racing area.

(c) It shall be a condition of every totalisator licence issued to an approved applicant that the holder of such licence shall pay to the Revenue Fund, at a time to be fixed by the Treasury, such percentage (not being less than fifty-one percent) of his profit as may be determined each year by agreement between the approved applicant and the Minister.

(2) Any person, who operates or permits the operation of a totalisator in respect of which a totalisator licence has not been granted under this section, shall be guilty of an offence.

(3) Any person in charge or having control of a totalisator, or any assistant of such person, who issues a ticket to any person upon credit or who accepts any money from, or issues a ticket or pays any dividend or money to, a person under the age of twenty-one years, shall be guilty of an offence.

(4) (a) The holder of a totalisator licence may, subject to the provisions of subsection (5) of this section and section 26, retain -

(i) a totalisator commission not exceeding eighteen percent of the gross takings of such totalisator in respect of win bets and place bets;

(ii) a totalisator commission not exceeding twenty-five percent of the gross takings of such totalisator in respect of all other bets; and

(iii) any fraction of an amount of ten cents occurring in the apportionment of amounts payable by such holder.

(b) for the purposes of paragraph (a) -

"win bet" means a bet which is based on the event or contingency that the horse in respect of which such bet is laid and taken wins the horse race in which such horse takes part; and

"place bet" means a bet which is based on the event or contingency that the horse in respect of which such bet is laid and taken is placed in the horse race in which such horse takes part.

(5) There shall be payable for the benefit of the Revenue Fund from the amounts retained in terms of subsection (4) by the holder of a totalisator licence a duty -

(a) at the rate of -

(i) eight percent of the gross takings of the totalisator contemplated in subsection (4) (a) (i); and

(ii) ten percent of the gross takings of the totalisator contemplated in subsection (4) (a) (ii); and

(b) at the rate of fifty percent of the total amount retained by such licence-holder under subsection (4) (a) (iii).

(6) If any dividend which is payable by the holder of a totalisator licence is not claimed within ninety days from the date on which such dividend became due and payable, such dividend shall, notwithstanding any agreement to the contrary, be paid in equal shares to the Revenue Fund and to the holder of such licence.

(7) (a) Not later than thirty days after every race day on which a totalisator is operated the holder of the totalisator licence shall pay to the nearest receiver of revenue the amount due to the Revenue Fund under subsection (5) and shall at the same time furnish to such receiver a return in a form approved by the Director-General which shall be verified by the affidavit or solemn declaration of such holder.

(b) Any person who contravenes or fails to comply with the provisions of paragraph (a) or who furnishes a return which is incorrect shall be guilty of an offence.

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(8) - (a) The holder of a totalisator licence shall enter or cause to be entered regularly in a book kept for the purpose all such particulars as the Minister may prescribe and shall forthwith produce such book for inspection on the demand of any authorized officer.

(b) Any person who contravenes or fails to comply with any provision of paragraph (a), or who fails or refuses to comply with the demand thereunder of an authorized officer, shall be guilty of an offence.

17. Penalty for late payment of licence fee, tax or duty and recovery of fee, tax duty or penalty. - (1) If any licence fee, tax or duty payable under this Act is not paid on or before the date on which it is due and payable, such fee, tax or duty shall be increased by way of penalty (to be calculated upon each completed rand of such fee, tax or duty) -

(a) at the rate of thirty percent per annum, where the amount payable does not exceed twenty rand;

(b) at the rate of twenty percent per annum, where the amount payable exceeds twenty rand but does not exceed fifty rand;

(c) at the rate of fifteen percent per annum, where the amount payable exceeds fifty rand but does not exceed one hundred rand; or

(d) at the rate of twelve and one-half percent, per annum where the amount payable exceeds one hundred rand: Provided that such penalty shall not exceed the total amount of the licence fee, tax or duty payable.

(2) The payment by any person of any fee, tax or duty under this Act or of any penalty under subsection (1) shall not exempt such person from any prosecution arising out of his failure to pay such fee, tax or duty, as the case may be.

(3) Any fee, tax duty or penalty payable in terms of this Act shall be a debt due to the Government.

18. Unlawful betting. - (1) There shall be guilty of an offence any person who, whether on any one or more occasions and whether as principal or agent -

(a) keeps, uses or opens or permits to be kept, used or opened any place for the purpose of betting or any purpose connected with betting;

(b) invites or permits any other person to bet with him or through his agency;

(c) has the care and management or assists in conducting the business of a place which is kept, used or opened for the purpose of betting or any purpose connected with betting;

(d) without lawful excuse is in or upon any place which is kept, used or opened for the purpose of betting or any purpose connected with betting;

(e) uses or permits to be used any vehicle for the purpose of betting or any purpose connected with betting; or

(f) without lawful excuse is in or upon any vehicle which is used for the purpose of betting or any purpose connected with betting:

Provided that nothing in this subsection contained shall apply to any licensed bookmaker, the holder of a totalisator licence or any person acting under his authority, a racing club or a Tattersall club or to any promoter of any sports, gymkhana, agricultural show or exhibition in respect of anything which is lawfully done under and in terms of any licence or authority or under the provisions of this Act.

(2) On conviction of any person of a contravention of any provision of this section, all moneys, coins, notes, cheques, bills, I O U's or other writings security or evidencing any undertaking for the payment of money and all books, lists, cards, implements and other documents relating to betting or any purpose connected with betting found in or upon any place referred to in subsection (1) shall be forfeited to the Government and the proceeds thereof paid to the Revenue Fund.

(3) In any proceedings against any person under this section -

(a) consideration for security the paying or the giving by some other person of any money or valuable thing shall be deemed to have passed unless the contrary is proved;

(b) any place in which any race card or document or any other article or thing of whatsoever nature relating to the purpose of betting or any purpose connected with betting is found, shall, unless the contrary is proved, be deemed to have been kept, used or opened for such purposes, notwithstanding that such place is also used for any other purpose; and

(c) it shall be deemed that the accused had no lawful excuse for being in or upon the place in question unless the contrary is proved.

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19. Prohibition of certain advertisements. - (1) No person shall publish any advertisement which -

- (a) invites the public or any person to take any bet or any share in any bet;
- (b) contains any offer to act as the agent of or as intermediary between other persons in any matter relating to the taking of any bet; or
- (c) offers for consideration to give advice regarding the taking of any bet or to forecast the result of any horse race: Provided that -
 - (i) nothing in this subsection contained shall be construed as preventing any newspaper or any television or radio service from publishing racing information which is not in conflict with any provision of this Act;
 - (ii) nothing in paragraph (a) contained shall apply to the holder of a race course licence or to any licensed bookmaker who, with the approval of the Tattersall club of which he is a member, publishes any such advertisement as aforesaid; and
 - (iii) nothing in paragraph (c) contained shall be construed as preventing the circulation within Ciskei of any newspaper published outside that Territory.

(2) Any person who contravenes any provisions of subsection (1) shall be guilty of an offence.

20. Drugging or shocking of horse. - There shall be guilty of an offence any person who, for the purpose of affecting the speed, stamina, courage, running or conduct of any horse or of causing physical injury to any horse -

- (a) in any manner administers or causes to be administered any drug or stimulant to such horse or
- (b) uses any electric apparatus for any such purpose: Provided that nothing in this section contained shall be construed as affecting the administration to a horse of any drug or stimulant or the use of any such electric apparatus for therapeutic reasons under the supervision of a veterinary surgeon in accordance with the rules of the Jockey Club.

21. Administration of Act. - (1) The Director-General shall, in consultation with the Treasury, be responsible for the due administration of the provisions of this Act and may for that purpose authorize any officer of his department or otherwise in the service of the Government to perform such duties or functions and exercise such powers as may be necessary for the purposes of such administration and the control or supervision of any activities licensed or permitted under this Act.

(2) Any authorized officer may at any time demand from any bookmaker, any betting or racing club, any holder of a race course licence or a totalisator licence, the promoter of any gymkhana or any person operating a totalisator or accepting stakes in respect thereof the production of any book, document or record of any kind for the purpose of verifying any statement or return made or rendered under this Act or for any other purpose arising from the performance of his duties under this Act.

22. Powers of authorized officers and place. - (1) Any authorized officer and any police official of or above the rank of sergeant may -

- (a) demand from any person found performing, or reasonably suspected of having performed, any act for which any licence, approval or other authority is required in terms of this Act, the production of such licence, approval or other authority or proof of its existence;
- (b) demand the name and residential address of any person committing or reasonably suspected of having committed any offence under this Act; and
- (c) at any time enter upon and inspect any race course, Tattersall rooms, approved premises or gymkhana course for the purpose of ascertaining whether the provisions of this Act are being complied with.

(2) If it appears to any authorized officer or police official referred to in subsection (1) that there are reasonable grounds for suspecting that any book, document, form, list, money, cheque, bill, promissory note, implement or other object (hereinafter referred to as the "exhibit") may afford evidence of the commission of an offence under this Act, he shall seize such exhibit, issue a receipt to the person from whose possession it was taken and thereafter submit the exhibit to a magistrate to be dealt with in accordance with law.

- (3) There shall be guilty of an offence any person who—
- (a) resists, hinders or obstructs any authorized officer or police official in the execution of his duty under this Act;
 - (b) wilfully furnishes false or incorrect information relating to bets or betting to any authorized officer or police official; or
 - (c) fails or refuses to comply with any demand or requirement in terms of subsection (1).

23. Enquiry into alleged malpractice. - (1) Whenever the Minister has cause to believe that any person has performed any act, whether of commission or of omission, which in his opinion may adversely affect horse racing or betting in Ciskei or the control or management thereof, he may require any competent officer in the service of the Government to make enquiry into the matter.

- (2) The officer who holds an enquiry in terms of subsection (1) may—
- (a) if he has reason to believe that any person is able to give evidence or to produce any document or other article which will be relevant to such enquiry, summon such person by a subpoena under his hand to appear before him at a time and place specified in the subpoena to be interrogated or to produce that document or other article; and
 - (b) call as a witness and administer an oath or affirmation to any person present at such enquiry who was or might have been summoned under paragraph (a), interrogate such person and require him to produce any document or other article in his possession or custody or under his control which he has reason to believe may be relevant to the enquiry.

- (3) At the enquiry—
- (a) the person in respect of whose action the enquiry is being held shall have the right to be present and to be heard either personally or through a representative, to cross-examine any person called as a witness by the officer holding the enquiry, to inspect any document or other article produced in evidence, to give evidence himself and to call other persons as witnesses; and
 - (b) the law relating to witnesses and evidence which applies in connection with criminal cases in a magistrate's court shall *mutatis mutandis* apply in respect of any person called as a witness in terms of subsection (2).

(4) If, after consideration of the record of the proceedings at such enquiry, the Minister is of the opinion that the act referred to in subsection (1) has indeed been performed, he may—

- (a) suspend for such period and on such conditions as he may deem fit, or cancel, any licence or authority issued to the person concerned in terms of this Act;
- (b) prohibit such person for such period and on such conditions as he may deem fit from entering or being upon any part of any or all race courses, Tattersall rooms or approved premises in Ciskei or from taking part or attempting to take part, whether directly or indirectly in the management or control of any of all race course, or any Tattersall club or approved premises, in Ciskei; or
- (c) make such other order as he may deem just.

(5) Any person who contravenes or fails to comply with any provision of a prohibition or order imposed on him under subsection (4) shall be guilty of an offence.

(6) Nothing in the foregoing provisions of this section contained shall be construed—

- (a) as derogating from any rule, regulation or other provision providing for the holding of an enquiry into any matter affecting the control or management of horse racing or betting in Ciskei by any racing club, Tattersall club, the Jockey club or any other association of persons established in the interests of horse racing and betting; or

- (b) as prohibiting or preventing any such club or association from enforcing against any person any disciplinary measures which it is competent to enforce.

(7) Any racing club, which has conducted or organized a horse race into which an investigation or enquiry concerning the running or riding of any horse engaged therein is subsequently held by such club, shall make known for general information in at least one of its official programmes issued thereafter the subject matter of the investigation or enquiry, the substance of any charge or allegation made against any person or persons in connection therewith and the finding or verdict of the competent authority.

24. Penalties. - Any person who is convicted of an offence under this Act shall be liable—

- (a) if the contravention is one of section 4 (b), 7 (6), 16 (2), 18 (1) (a), (b) or (c) or 20, to

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a fine not exceeding one thousand rand or, in default of payment, imprisonment for a period not exceeding six months or to such imprisonment without the option of a fine or to both such fine and such imprisonment; or

(b) if the contravention is one of any other provision of this Act, to a fine not exceeding two hundred rand or, in default of payment, imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

25. Regulations. - (1) The Minister may make regulations, not inconsistent with the provisions of this Act, in respect of any matter contemplated, required or permitted to be approved, authorized or permitted to be approved, authorized or prescribed under this Act and generally as to the management and control of horse racing, betting, race course, racing clubs, Tattersall clubs, totalisators and bookmakers in Ciskei and in particular, but without prejudice to the generality of the foregoing provisions of this subsection in respect of all or any of the following matters:-

(a) the control and management of any racing club, race course or Tattersall rooms;

(b) the management and control of Tattersall clubs, the conduct of meetings of any committee, the term of office of members of such committee and the circumstances in which a committee may be dissolved or any of its members removed from office by the Minister, the manner of filling vacancies on such committee, the fees and allowances of members of such committee and the entrance and subscription fees for admission to, and membership of Tattersall clubs;

(c) the hours during which any Tattersall rooms may be kept open for the laying, taking or setting of bets, the powers of entry to such rooms of police officials and authorized officers and the ejection of drunken, noisy or disorderly persons from such rooms;

(d) the manner in which the accounts of a committee shall be kept and the auditing of such accounts;

(e) the powers of the committee of a racing club or of a Tattersall club in respect of the settling of any disputes which may arise in connection with the laying, taking and selling of bets;

(f) the manner in and the conditions under which any licensed bookmaker shall be permitted to lay, take or settle bets;

(g) the returns, affidavits, solemn declarations or other information to be furnished by or on behalf of racing clubs, promoters of gymkhanas, Tattersall clubs, bookmakers and holders of totalisator licences and the officers or persons to whom the same shall be furnished;

(h) the powers, duties and functions of authorized officers;

(i) the manner in which the fee levied in terms of section 3 (5) (a) and the guarantee furnished under section 13 shall be collected, retained, disposed of or distributed;

(j) the application for and the issue of any licences or the granting of approval or authority in terms of this Act;

(k) the duties of bookmakers in relation to racing clubs and holders of totalisator licences and the conduct by them of their business on race courses or in Tattersall rooms;

(l) the sale of or participating in the whole or any portion of a bet;

(m) the vicarious responsibility of a licensed bookmaker for the acts or omissions of his employees;

(n) the operation, management and control of totalisators and the conditions which shall apply to a totalisator licence; and

(o) the payment or the evasion of payment of any duty, fee or tax payable under this Act.

(2) Different regulations may be made in respect of different districts, race courses, Tattersall clubs, classes of members of Tattersall clubs, Tattersall rooms, approved premises or classes of bookmakers and any regulation may provide that any contravention thereof or failure to comply therewith shall be an offence.

(3) The power to make regulations for any purpose mentioned in this section shall include the power to restrict or to prohibit any matter or thing in relation to that purpose either absolutely or conditionally.

(4) Until the Minister makes regulations under the foregoing provisions of this section the regulations (hereinafter referred to as the existing regulations) in force under the laws repealed by section 27 immediately prior to the commencement of this Act shall continue in force in so far as the existing regulations are not inconsistent with the provisions of this Act: Provided that whenever the Minister makes regulations with regard to any of the matters referred to in subsection (1) of this section, that part of the existing regulations relating to such matters shall be deemed to have been withdrawn.

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26. Race Course Development Fund. - (1) Every holder of a race course licence, who is also the holder of a totalisator licence shall, as from the commencement of this Act establish and maintain a Race Course Development Fund into which shall be paid an amount equal to three percent of the gross takings of the totalisator concerned in respect of stakes accepted on the race course in question.

(2) Such holder shall -

(a) pay into the Fund moneys required to be paid into the Fund in terms of subsection (1) not later than thirty days after everyday on which the totalisator concerned was operated;

(b) keep or cause to be kept proper books of account of payments into and withdrawals from such Fund; and

(c) not later than the thirty-first days of March in each year submit to the Director-General an audited statement of account reflecting, in respect of the calendar year immediately preceding such thirty-first day of March, payments into withdrawals from such Fund.

(3) The moneys in the Fund established under subsection (1) shall be used for such purposes as the Minister may, either generally or specially, authorize or direct.

(4) All moneys in the Fund established under subsection (1) which are not immediately required to be used for or in connection with any purpose authorized or directed by the Minister in terms of subsection (3) shall be invested at interest by the holder of the totalisator licence concerned with a commercial bank or other deposit-receiving institution approved by the Treasury for the benefit of such Fund.

27. Repeal laws and savings. - (1) The laws mentioned in the Schedule are hereby repealed.

(2) Any approval, authority, licence, direction or appointment given, granted, issued or made, and any other act done, under any provision of any law repealed by subsection (1) shall be deemed to have been given, granted, issued, made or done under the corresponding provision of this Act.

28. Short title. - This Act shall be called the Horse Racing and Betting Act, 1986.

SCHEDULE

LAWS REPEALED

No. and date of Law	Short Title
Ordinance 34 of 1968	Horse Racing and Betting Ordinance, 1968
Ordinance 16 of 1971	Horse Racing and Betting Amendment Ordinance, 1971
Ordinance 17 of 1972	Horse Racing and Betting Amendment Ordinance, 1972
Ordinance 14 of 1973	Horse Racing and Betting Amendment Ordinance, 1973
Act 20 of 1980	Ciskeian Horse Racing and Betting Amendment, Act, 1980
Ordinance 8 of 1982	Horse Racing and Betting Amendment Ordinance, 1982
Ordinance 8 of 1983	Horse Racing and Betting Amendment Ordinance, 1983

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