



SAMOA

**BETTING (TOTALISATOR AGENCY)  
ACT 1990**

Arrangement of Provisions

**PART 1  
PRELIMINARY**

1. Short title
2. Commencement
3. Interpretation

**PART 2  
TOTALISATOR  
AGENCY BOARD**

4. Establishment of the Board
5. Independence of the Board
6. Constitution of the Board
7. Chairperson and Deputy Chairperson
8. Remuneration and allowances of members
9. Leave of absence
10. Removal and resignation of members
11. Vacation of office
12. Meetings of the Board
13. Employees
14. Functions of the Board
15. Exclusive rights to conduct totalisator betting facilities
16. General powers of the Board
- 16A. Agents for overseas lotteries
17. Power to enter into agreements
18. Offices and agencies of the Board elsewhere than on racecourses
19. Premises on racecourses

20. Provisions relating to offices and agencies of the Board
21. Commission
22. Investments
23. Borrowing by the Board
24. Accounting periods
25. Payments to charities
26. Payments to prescribed race clubs
27. Ordinary application of revenue of the Board
28. Reserve Account
29. Expenditure of moneys in an account
30. Proper accounts to be kept
31. Audit
32. Board to keep Minister informed
33. Annual Report

**PART 3  
TOTALISATOR BETTING**

34. Lawful betting elsewhere than on racecourses
35. Acceptance of bets
36. Placing of bets
37. Conditions relating to betting through the Board
38. Credit Account
39. Persons who may not bet through the Board
40. Dividends
41. Provisions applicable if no winning bets

- 2 Betting (Totalisator Agency) Act 1990**
- |   |   |
|---|---|
| 42. Offences in relation to payment of winning bets and refunds | 44. Penalties for certain offences              |
| 43. Dividend Equalization Account                               | 45. Inspectors                                  |
|   | 46. Obstruction of inspectors                   |
|   | 47. Determinations and resolutions of the Board |

**PART 4  
MISCELLANEOUS**

---

**BETTING (TOTALISATOR AGENCY) ACT 1990**  
**1990** **No.2**

**AN ACT** to establish and make provisions to Betting (Totalisator Agency) Act 1990.

*[Assent and commencement date: 23 November 1990]*

**PART 1  
PRELIMINARY**

**1. Short title** – This Act may be cited as the Betting (Totalisator Agency) Act 1990.

**2. Commencement** – (1) For all purposes, this Act is deemed to have commenced on 23 November 1990.

(2) For the purposes of removal of doubt:

(a) despite any other law, all contracts, agreements, orders, directions, decisions, appointments, determinations, legal actions, other actions and acts of authority by or on behalf or involving the Board since the 23 November 1990, which but for the commencement of this Act would have been valid or otherwise lawful, shall be saved and deemed for all purposes to have been lawfully made, done, decided or entered into, as the case may require; and

(b) this section shall have retrospective effect.

**3. Interpretation** – In this Act, unless the context otherwise requires:

“accounting period” means a period determined by the Board under section 24;

- “accounting year” means a period of 12 months commencing on the 1 January;
- “betting” includes the negotiation, acceptance and distribution of moneys in connection with bets and settling of bets;
- “Board” means the Totalisator Agency Board established under section 4;
- “Chairperson” means the Chairperson of the Board;
- “charitable club” means a club formed or carried on for a religious, educational, cultural, benevolent or other charitable purpose, but does not include a club formed or carried on for the purpose of trading or securing pecuniary profit to its members;
- “club” means a club, association, society or other body of persons, whether incorporated or not;
- “Deputy Chairperson” means the Deputy Chairperson of the Board;
- “double bet” means a bet, with 1 stake, on the results of 2 races;
- “inspector” means a person holding office as inspector under section 45;
- “lottery” includes any game, method or device whereby money or money’s worth is distributed or allotted in any manner depending on, or to be determined by, chance or lot, or the result of any race or contest and any place in which lottery tickets are sold procured or distributed is deemed to be kept for the purpose of a lottery;
- “member” means a member of the Board;
- “Minister” means the Minister of Finance;
- “overseas lotteries” means lotteries which are conducted outside Samoa in accordance with the laws of the state or country within which lotteries are conducted;
- “race” means a horse race, dog race, pony race or trotting race, and includes in relation to a bet, with 1 stake, on the results of 2 or more races, all of the races in relation to which the bet is made;
- “race club” means a club formed or carried on for the purpose of conducting or controlling races;
- “racecourse” means land, whether within or outside of Samoa, that is used for races and to which admission is

4

***Betting (Totalisator Agency) Act 1990***

obtainable by payment of money, by ticket or otherwise;  
and

“totalisator betting” means betting on a racecourse or elsewhere than on a racecourse, by placing bets on a race on a totalisator.

**PART 2**

**TOTALISATOR AGENCY BOARD**

**4. Establishment of the Board** – (1) There is established for the purposes of this Act a Board by the name of Totalisator Agency Board.

(2) The Board:

- (a) is a body corporate with perpetual succession;
- (b) shall have a common seal;
- (c) is capable of acquiring, holding and disposing of real and personal property; and
- (d) may sue or be sued in its corporate name.

(3) All Courts, Judges and persons acting judicially shall take judicial notice of the common seal of the Board affixed to a document and shall presume that it was duly affixed.

**5. Independence of the Board** – The Board is not, and shall not be regarded as, for any purpose, the servant or agent of the Government.

**6. Constitution of the Board** – (1) The Board consists of 5 members to be appointed by the Head of State acting on the advice of Cabinet.

(2) Subject to this Act, a member holds office for a term of 3 years.

(3) A member is eligible for reappointment.

(4) The performance of the functions or the exercise of the powers of the Board is not affected by reason only of there being a vacancy or vacancies in the membership of the Board.

**7. Chairperson and Deputy Chairperson** – (1) The Head of State, acting on the advice of Cabinet, shall appoint a member to be Chairperson of the Board.

(2) The Head of State, acting on the advice of Cabinet, shall appoint a member, other than the Chairperson, to be Deputy Chairperson of the Board.

(3) A member appointed as Chairperson or Deputy Chairperson holds office as such until the appointment of another member as Chairperson or Deputy Chairperson or until he or she ceases to be a member whichever happens first.

(4) The Chairperson or Deputy Chairperson if he or she is reappointed as a member for a further term is eligible for reappointment as Chairperson or Deputy Chairperson.

**8. Remuneration and allowances of members** – The Chairperson and each of the other members shall be paid by the Board such remuneration and allowances to be determined by Cabinet.

**9. Leave of absence** – The Cabinet may grant leave of absence to a member upon such terms and conditions as to remuneration or otherwise as Cabinet determines.

**10. Removal and resignation of members** – (1) The Head of State, acting on the advice of Cabinet, may remove a member, from office:

- (a) for disability, inefficiency, neglect of duty, misconduct or permanent departure from Samoa;  
or
- (b) if the member is convicted, whether within or outside of Samoa, of an offence against a law relating to gaming or betting.

(2) A member may resign from office by writing addressed to the Minister.

**11. Vacation of office** – (1) If a member:

- (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
- (b) is absent, except on leave granted by the Minister from 3 consecutive meetings of the Board; or

**Betting (Totalisator Agency) Act 1990**

(c) fails to comply with the member's obligations under the next succeeding subsection,—  
the Head of State, acting on the advice of Cabinet, shall remove that member from office.

(2) A member who is directly or indirectly interested in an arrangement or agreement made or entered into, or proposed to be made or entered into, by the Board shall, as soon as possible after the relevant facts have come to his or her knowledge, disclose the nature of the member's interest at a meeting of the Board.

(3) A disclosure under subsection (2) shall be recorded in the minutes of the Board, and the member:

- (a) shall not take part after the disclosure in any deliberation or decision of the Board with respect to the arrangement or agreement; and
- (b) shall be disregarded for the purposes of constituting a quorum of the Board for any such deliberation or decision.

**12. Meetings of the Board – (1)** Subject to this section, meetings of the Board shall be held at such times and places as the Board determines.

(2) The Chairperson or, in the absence of the Chairperson or of a vacancy of his or her office, the Deputy Chairperson may convene a meeting of the Board.

(3) The Chairperson shall preside at all meetings of the Board at which he or she is present.

(4) In the absence of the Chairperson from a meeting of the Board, the Deputy Chairperson shall preside at the meeting.

(5) In the absence of both the Chairperson and the Deputy Chairperson from a meeting of the Board, the members present shall elect 1 of their number to preside at the meeting.

(6) At a meeting of the Board 3 members constitute a quorum.

(7) A question arising at a meeting of the Board is decided by a majority of the votes of the members present and voting.

(8) At a meeting of the Board at which the Chairperson presides, the Chairperson may not exercise a deliberative vote but, in the event of an equality of votes, may exercise a casting vote.

(9) At a meeting of the Board at which a member other than the Chairperson presides, that member may exercise a deliberative vote and, in the event of an equality of votes, also may exercise a casting vote.

(10) The Board shall keep a record of its determinations and other proceedings.

(11) Subject to this Act, the procedure of the Board at its meetings shall be as the Board determines.

**13. Employees – (1)** The Board shall appoint a person to be General Manager of the Board.

(2) The General Manager shall, under the Board, manage the affairs of the Board.

(3) The Board may employ such other persons as it thinks necessary for the purposes of this Act.

(4) The Board may delegate to the General Manager its power of employing other persons under subsection (3) but the delegation may be revoked by the Board at any time.

**14. Functions of the Board** – The functions of the Board are:

- (a) to conduct or provide under this Act totalisator betting facilities in respect of races within or outside Samoa by operating its own totalisator or by means of agreements entered into under section 17;
- (b) to carry on the business or occupation of bookmaking; and
- (c) to conduct the game of lotto in Samoa and to provide facilities or agencies where persons may participate in lotteries whether such lotteries are conducted within or outside Samoa.

**15. Exclusive rights to conduct totalisator betting facilities** – The Board has in Samoa, the exclusive rights:

- (a) to conduct or provide totalisator betting facilities on races held whether within or outside of Samoa;
- (b) to carry on the business or occupation of bookmaking in such manner as it thinks fit; and
- (c) to conduct the game of lotto in such manner as it thinks fit.

**16. General powers of the Board – (1)** The Board has power to do all things necessary or convenient to be done in connection with, or as incidental to, the performance of its functions.

**(2)** Without limiting subsection (1), and despite section 15, the Board may issue a licence to any person:

- (a) to conduct or provide totalisator betting facilities on races held whether within or outside of Samoa; or
- (b) to carry on the business or occupation of bookmaking; or
- (c) to conduct the game of lotto; or
- (d) to act as an agent for overseas lotteries.

**(3)** Any licence issued under subsection (2) is subject to such terms and conditions as are prescribed by the Head of State, acting on the advice of Cabinet, by regulation.

**(4)** A person who contravenes a term or condition subject to which a licence is issued under this section commits an offence and is liable on conviction to a fine not exceeding 10 penalty units or to imprisonment for a term not exceeding 5 years.

**(5)** The Board may cancel or refuse to renew any licence issued under this section where a person to whom the licence was issued fails to comply with any term or condition of the licence.

**16A. Agents for overseas lotteries – (1)** This section relates to and only to licences issued under section 16(2)(d).

**(2)** A person may apply to the Board for a licence to act as an agent for overseas lotteries.

**(3)** Unless otherwise prescribed under section 16(3):

- (a) a licence shall remain in force for a period of 1 year but may at the discretion of the Board be renewed from year to year; and
- (b) a licence is subject, in addition to any other conditions which the Head of State may prescribe, to the following conditions—
  - (i) the agent for overseas lotteries may only transact business on the premises specified in his or her licence; and
  - (ii) the premises and the books and documents kept in connection with the agency shall



be open to inspection during normal office hours by any person authorised in that behalf by the Board.

(4) Without limiting section 16(3), the conditions of any licence may include conditions as to payment of fees or commissions to the Government or to the Board.

(5) The holder of a licence may act as an agent for overseas lotteries within the terms and conditions of that licence.

**17. Power to enter into agreements – (1)** The Board may enter into an agreement under this section with a body in another country that is authorised by a law of that country to conduct or provide totalisator betting.

(2) An agreement entered into under subsection (1) may provide that:

- (a) the body in the other country will place bets transmitted to it by the Board on a totalisator conducted in that country and return to the Board such dividends in respect of bets so transmitted to it as are declared by the totalisator on which the bets were placed;
- (b) that the body will return to the Board such amount as commission out of the amount of the bets received by that body from the Board as is agreed upon between that body and the Board;
- (c) the Board will place any bets transmitted to it by that body on a totalisator conducted by the Board and return to that body the dividends payable in respect of the bets placed by the Board in accordance with this Act; and
- (d) the Board—
  - (i) will return to that body such amount as commission out of the amount of the bets received by the Board from that body as is agreed upon between that body and the Board; or
  - (ii) if, in relation to bets transmitted to the Board by the body, being bets included in a specified class or classes of bets, the agreement so provides, the body will retain, out of the amount of each bet so

**Betting (Totalisator Agency) Act 1990**

transmitted to the Board, as commission such amount as is agreed upon between that body and the Board and will pay to the Board such amount, as commission in respect of the placing of those bets by the Board, as is agreed upon between that body and the Board.

(3) The return of an amount as commission referred to in subsection (2)(b) or (d)(i) may be made subject to such conditions relating to the application of the commission as are agreed upon between the parties to the agreement.

(4) Where:

- (a) bets are transmitted to the Board in pursuance of an agreement under this section; and
- (b) the body that has transmitted those bets to the Board has, in pursuance of a provision in that agreement of the kind referred to in subsection (2)(d)(ii) retained out of the amounts of those bets commission under that provision,–

the Board shall not retain out of, the amount of the bets so transmitted any commission under section 21.

**18. Offices and agencies of the Board elsewhere than on racecourses** – (1) Subject to this section, the Board may, establish offices and agencies for the carrying out of its powers or functions under this Act and may discontinue any office or agency so established.

(2) The Board shall not carry on its business except at an office or agency at a place approved by the Minister.

(3) The Board shall not use premises to which members of the public are admitted for the purposes of betting under this Act unless the premises consist of separate premises that are accessible, without passing through other occupied premises, from a street, road, lane or other place that is open to or used by members of the public.

(4) Subsections (2) and (3) do not apply to or in relation to the carrying on by the Board of its business on a racecourse in Samoa.

**19. Premises on racecourses** – (1) A race club controlling races at a racecourse in Samoa shall, if the Board has not

established an office or agency at the racecourse, make available to the Board such premises at the racecourse as are necessary to enable the Board to conduct totalisator betting facilities at the racecourse.

(2) A reference in this Act to an office or agency of the Board shall, unless the contrary intention appears, be read as including premises made available to the Board under subsection (1).

**20. Provisions relating to offices and agencies of the Board** – (1) Subject to this Act, the operation of offices and agencies of the Board, including the hours of business of its offices and agencies, are as the Board determines.

(2) A person having the management or control of an office or agency of the Board may:

- (a) request a person who is drunk, violent, quarrelsome, behaving in a disorderly manner, or loitering or hanging about in the office or agency, to leave the office or agency; and
- (b) refuse to admit such a person to the office or agency.

(3) A person shall not:

- (a) enter an office or agency of the Board on being refused admittance to it under subsection (2); or
- (b) refuse or fail to leave an office or agency of the Board on being requested to leave it under subsection (2).

(4) A person who contravenes subsection (3) commits an offence.

**21. Commission** – The Board shall, out of the amount of each bet received by it and placed by it on the totalisator operated by it, retain as commission such amount as the Board, with the approval of the Minister, determine to be so retained for the class of bets in which the bet is included.

**22. Investments** – Moneys of the Board not immediately required for the purposes of the Board may be invested on fixed deposit with a bank or in securities of or guaranteed by the Government.

**23. Borrowing by the Board** – (1) The Board may borrow moneys on overdraft from a bank for the temporary purposes of paying the expenses of connected with or arising out of the carrying on of its business.

(2) The rights of a bank from which moneys are borrowed under subsection (1) are not prejudiced or affected by any application by the Board of moneys so borrowed.

(3) In addition to the powers conferred on it by subsection (1) the Board may, with the approval of the Minister, borrow moneys in such amounts as the Minister certifies are, in his or her opinion, necessary for the exercise of its powers or the performance of its duties or functions under this Act.

(4) The Board may give security over the whole or any part of its assets for the repayment of amounts borrowed under this section and the payment of interest on amounts so borrowed.

(5) The Minister may, on behalf of the Government, guarantee the repayment by the Board of amounts borrowed under subsection (3) and the payment of interest on amounts so borrowed.

**24. Accounting periods** – The Board shall not later than the commencement of an accounting year, determine such periods into which that accounting year is to be divided for the purposes of this Act.

**25. Payments to charities** – (1) The Board shall, at the beginning of each accounting period, set aside in an account in its books an amount equal to 1% of the amount of bets accepted by the Board during the preceding accounting period for the purpose of making payments to such charitable clubs and organisations as the Minister determines.

(2) The Board shall make payments out of the account referred to in this section as the Minister determines.

**26. Payments to prescribed race clubs** – (1) Subject to this section, the Board shall, at the beginning of each accounting period, set aside in an account in its books, for the purpose of making payments to prescribed race clubs, an amount equal to 1% of the amount of bets accepted by the Board during the preceding accounting period.

(2) Subject to subsection (4), the Board shall pay to each prescribed race club once in each accounting period, out of the moneys set aside for the purposes of subsection (1), an amount ascertained in accordance with the formula:

$$p = \frac{x}{100 n}$$

Where:

- p – is the amount of the payment to the club;
- x – is the amount of bets accepted by the Board during the preceding accounting period attributable to racing of the kind conducted by the club; and
- n – is the number for the time being of prescribed race clubs that conduct racing of the same kind as that conducted by the club.

(3) Subject to subsection (4), the Board shall pay to each prescribed race club at the expiration of each accounting year, out of the moneys remaining after the application of moneys during that accounting year in accordance with sections 27 and 28 not being moneys set aside for the purpose of section 25, an amount ascertained in accordance with the formula:

$$p = \frac{xy}{nz}$$

Where:

- p – is the amount payable to the club;
- x – is the amount of the moneys so remaining;
- y – is the amount of bets accepted by the Board during that accounting year attributable to racing of the kind conducted by the club;
- n– is the number for the time being of prescribed race clubs that conduct racing of the same kind as that conducted by the club; and
- z– is the total amount of bets accepted by the Board during that accounting year.

(4) The Board shall not make a payment to a club under subsection (2) or (3) without the approval of the Minister.

(5) If the Minister does not approve the making of a payment to a prescribed race club, the amount that, but for the absence of such approval, would have been paid to the club is to be divided among the remaining prescribed race clubs:

- (a) in the case of an amount payable under subsection (2) in the same proportions as the amounts respectively payable to each of the remaining clubs under that subsection; and
- (b) in the case of an amount payable under subsection (3) in the same proportions as the amounts respectively payable to each of the remaining clubs under that subsection bear to the total amount payable to those clubs under that subsection.

(6) In this section, “prescribed race club” means a body corporate in respect of which there is a determination under subsection (7).

(7) The Minister may, determine that a race club, being a body corporate incorporated under a law of Samoa, is a prescribed race club for the purposes of this section.

**27. Ordinary application of revenue of the Board** – The moneys of the Board remaining after applying and setting aside amounts under sections 29 and 30(1) are to be applied by the Board:

- (a) in paying the costs, charges, obligations, liabilities and expenses incurred or undertaken by the Board in or in connection with the carrying out of its functions under this Act; and
- (b) in paying the remuneration, allowances, fees and salaries of members of the Board and its staff; and
- (c) in making such payments as are, necessary to balance the Dividend Equalization Account opened under section 43.

**28. Reserve Account** – (1) The Board shall, in the accounts kept by it in pursuance of section 30 keep an account to be called the Reserve Account.

(2) The Board shall, set aside in the Reserve Account, out of moneys of the Board remaining after setting aside amounts

under sections 25 and 26(1) and making payments under section 27, such amounts as the Minister, on the recommendation of the Board, approves.

(3) Amounts standing to the credit of the Reserve Account shall be applied by the Board, pursuant to resolutions of the Board:

- (a) in the repayment of amounts borrowed by the Board under this Act; and
- (b) in meeting the costs of capital expenditure and the acquisition by the Board of capital assets.

**29. Expenditure of moneys in an account** – The Board shall expend moneys standing to the credit of an account set aside under this Act only for the purposes of the account as provided by this Act.

**30. Proper accounts to be kept** – The Board shall keep proper accounts and records in accordance with the accounting principles generally applied in commercial practice, and shall, in its accounts, make provision for obsolescence or depreciation of its assets and do all things necessary to ensure that all payments are properly authorised and correctly made and that adequate control is maintained over its assets and the incurring by it of liabilities.

**31. Audit** – (1) The accounts and records of financial transactions of the Board shall be audited by the Controller and Auditor General.

(2) The Controller and Auditor General shall forthwith draw to the attention of the Board any irregularity disclosed by the audit that, in his or her opinion, is of sufficient importance to justify his or her so doing.

**32. Board to keep Minister informed** – The Board shall provide to the Minister such information relating to its operations as the Minister requires.

**33. Annual Report** – The Board shall, as soon as practicable after each 31 day of December, provide to the Minister a report of its operations during the year ended on that date, together with financial statements, in such form as the

Minister approves, in respect of that year and the Minister shall cause such report to be laid before Parliament as soon as practicable thereafter.

### **PART 3 TOTALISATOR BETTING**

**34. Lawful betting elsewhere than on racecourses** – A bet on a race that could lawfully be made in Samoa at a racecourse during a race-meeting may be made through the Board at an office or agency of the Board as provided by this Act, whether or not a race-meeting is being conducted at a racecourse in Samoa on the day the bet is made.

**35. Acceptance of bets** – (1) The Board shall not accept a bet except at an office or agency of the Board and in accordance with this Act.

- (2) The Board shall not accept a bet from a person unless:
- (a) the amount of the bet is deposited in cash at an office or agency of the Board at the time of making the bet; or
  - (b) the amount of the bet is received at an office or agency of the Board with a letter from that person setting out the bet; or
  - (c) the bet is made by telegram from that person received at an office or agency of the Board and payment of the amount of the bet is arranged by that telegram; or
  - (d) the bet is made by letter, telegram or telephone message to, or personally at, an office or agency of the Board by that person and payment of the amount of the bet is authorised to be made from a credit account that—
    - (i) was established by that person under section 37 before the commencement of the race-meeting at which the race on which the bet is made is run; and
    - (ii) shows sufficient credit at the time of making the bet to pay the amount of the bet.



(3) The Board shall not accept a bet except in an amount of 50 sene or a multiple of 50 sene or such other amount or multiple thereof as approved by the Board.

(4) A person shall not, in respect of a bet, issue a ticket or other acknowledgment purporting to be in respect of a bet and to be issued by the Board unless he or she is a person lawfully managing or controlling, or is employed in, an office or agency of the Board.

(5) A person who contravenes subsection (4) commits an offence.

**36. Placing of bets** – The Board shall place a bet accepted by it under this Act:

- (a) in respect of a race on which the Board operates its own totalisator, on that totalisator; and
- (b) in respect of a race on which the Board does not operate its own totalisator, on the totalisator in another country being the totalisator in respect of, which a body conducting totalisator betting in that country on that race in pursuance on an agreement with that body under section 17, the agent of the Board.

**37. Conditions relating to betting through the Board** –

(1) Subject to this Act, the Board may determine the arrangements for distributing amounts as dividends on bets made by letter or telegram, the closing times and other conditions for the acceptance of bets at its offices and agencies, the method of identification of persons offering to make bets, the manner of acknowledging bets made and the manner of recording the bets made.

(2) A person employed by the Board who accepts a bet or permits or suffers a bet to be accepted at any time other than the time determined by the Board for the acceptance of that bet commits an offence and is liable upon conviction to a fine not exceeding 5 penalty units.

**38. Credit Account** – (1) A person may, as the Board determines, establish a credit account with the Board by depositing with the Board an amount of not less than \$2 and may, as the Board determines, deposit further moneys in, or

credit amounts as dividends in respect of bets won by him or her to the account.

(2) If no bets are made through the Board by a person from his or her credit account for a period of 5 months, the Board shall, by letter posted to his or her last-known address, notify the person of the amount standing to his or her credit.

(3) If, within the period of one month after the posting of the notification referred to in subsection (2) no bets have been made in respect of the credit account of the person, the Board is not liable to refund any amount of money standing to the credit of that person in the account.

**39. Persons who may not bet through the Board – (1)** No person under the age of 18 years shall make a bet through the Board.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine under section 44.

(3) A person who has the management or control of, or is employed at, an office or agency of the Board shall not accept a bet from or issue a ticket or acknowledgment to another person in respect of a bet if that other person is apparently under the age of 18 years or if the person has reason to believe that that other person is under the age of 18 years.

**40. Dividends – (1)** The Board shall, as soon as practicable after the conclusion of each race on which totalisator betting facilities are conducted or provided by it, pay dividends in accordance with this section on each bet placed by the Board in respect of which a dividend is payable.

(2) For the purposes of subsection (1):

(a) a bet is a bet in respect of which a dividend is payable—

(i) in a case where bets are placed on the totalisator operated by the Board, if the bet is declared, pursuant to the resolution of the Board applicable in relation to the class of bets in which the bet is included, to be a bet in respect of which a dividend is payable; and

(ii) in a case where bets are placed by the Board on a totalisator other than the totalisator

operated by the Board, if the bet is declared by the totalisator on which the bets were placed to be a bet in respect of which a dividend is payable; and

(b) a reference to a bet in respect of which a dividend is payable shall be read as including a bet in respect of which a refund is payable pursuant to the resolution of the Board that is applicable to the race on which the bet was placed and the class of bets in which that bet is included or is payable by the totalisator on which the bet was placed, as the case may be.

(3) The minimum amount to be paid by the Board as a dividend in respect of a bet placed by the Board on a race, other than a race in which two or more runners were each placed, first, second or third, is 50 sene.

(4) The Board is not liable to pay an amount as a dividend in respect of a bet on a race remaining unclaimed after the expiration of the period of 6 months that commenced on the first day on which the office or agency of the Board at which the bet was made was open for business after the day of the race.

**41. Provisions applicable if no winning bets** – Where the bets on a race placed by the Board on its own totalisator do not include a bet on the winner of the race or on a winning combination on the race, the amount that would, if one or more bets had been placed on the winner of the race or on the winning combination on the race, as the case may be, have been available for distribution as dividends pursuant to the resolution of the Board that is applicable to the race and the class of bets accepted for the race shall, if the resolution so provides, form part of the amount available for distribution as dividends on other bets. Whether on the same race or another race, in respect of which dividends are payable or, if the resolution so provides, shall be credited to the Dividend Equalization Account referred to in section 43.

**42. Offences in relation to payment of winning bets and refunds** – A person who authorises or permits a payment, otherwise than under this Act of a dividend, or of a refund, in

respect of a bet made under this Act commits an offence punishable upon conviction by a fine not exceeding 5 penalty units.

**43. Dividend Equalization Account – (1)** The Board shall, in the accounts kept by it in pursuance of section 30, keep an account to be called the Dividend Equalization Account and shall set aside in that Account amounts which, under resolutions of the Board, are to be credited to that Account and any amounts as unclaimed dividends that by reason of section 40(4), the Board is not liable to distribute.

**(2)** There shall be debited against the Dividend Equalization Account any amounts which in accordance with section 40(3) or under the appropriate resolution of the Board, are included in dividends paid by the Board on bets in respect of which dividends are payable at amounts higher than the amounts at which they would, but for that subsection or that resolution, have been payable.

**(3)** Any balance standing to the credit or debit of the Dividend Equalization Account at the end of each accounting year shall be transferred to the revenue account of the Board.

#### **PART 4 MISCELLANEOUS**

**44. Penalties for certain offences – (1)** A person is liable upon conviction for an offence against section 20, section 35(4), or section 39(2):

- (a) for a first offence, to a fine of not more than 2 penalty units or imprisonment for a term not exceeding 6 months;
- (b) for a second offence, to a fine of not more than 4 penalty units or imprisonment for a term not exceeding 12 months; and
- (c) for a subsequent offence, to imprisonment for a term not exceeding 12 months.

**(2)** For the purposes of the application of subsection (1)(a), (b) and (c), all offences committed by a person on the 1 day is taken to be the 1 offence, but separate penalties may be imposed for each of those offences under subsection (1)(a), (b) or (c).

**45. Inspectors – (1)** The Minister may appoint a person to be an inspector for the purpose, as directed by the Minister, of inspecting:

- (a) offices and agencies of the Board;
- (b) totalisators on racecourses to which bets are transmitted by the Board; and
- (c) totalisators on racecourses from which bets are transmitted to the Board,—

to ensure that they are being conducted in accordance with this Act.

**(2)** In the performance of his or her duties under this Act, an inspector has power:

- (a) to enter at any time, an office or agency of the Board or a building containing a totalisator;
- (b) to examine the machinery, parts and working of a totalisator; and
- (c) to demand any information from a person employed by, or as an agent of, the Board, or a person having the management or control of a totalisator, or require the production of any books, papers or documents, as the inspector thinks necessary for the purpose of the inspection.

**(3)** An inspector who examines the machinery, parts or working of a totalisator shall not interfere with the operation of the totalisator during his or her examination.

**(4)** An inspector shall not remain in or on any premises if, on request by the occupier or person-in-charge of the premises, the inspector does not produce a statement in writing signed by the Minister certifying that the person is an inspector under this section.

**(5)** An inspector may, during the conduct of a race-meeting at a racecourse in Samoa at which a totalisator is used, enter the racecourse without charge for the purposes of performing his or her duties under this section.

**46. Obstruction of inspectors – (1)** A person shall not, without reasonable excuse, obstruct an inspector in the execution or performance of the inspector's powers or duties under this Act.

**(2)** A person shall not:

***Betting (Totalisator Agency) Act 1990***

- (a) refuse entry to an inspector to any place to which the inspector is empowered to enter under this Act; or
- (b) refuse to give to such an inspector any information, books, papers or documents that he or she has demanded under this Act.

(3) A person who contravenes subsection (1) or (2) commits an offence and is liable on conviction to a fine not exceeding 5 penalty units.

**47. Determinations and resolutions of the Board – (1)** A copy of the determinations of the Board under sections 20, 37 and 38 and of resolutions of the Board referred to in section 39(2) shall be exhibited in any office or agency of the Board in a conspicuous place in a part of the office or agency to which members of the public have access.

(2) The production of a document under the common seal of the Board purporting to be a copy of a determination or of a resolution of the Board is, in any proceedings, sufficient evidence of the determination or of a resolution.

---

**REVISION NOTES 2008 – 2017**

This is the official version of this Act as at 31 December 2017.

This Act has been revised by the Legislative Drafting Division from 2008 to 2017 respectively under the authority of the Attorney General given under the *Revision and Publication of Laws Act 2008*.

The following general revisions have been made:

- (a) Amendments have been made to conform to modern drafting styles and to use modern language as applied in the laws of Samoa.
- (b) Amendments have been made to up-date references to offices, officers and statutes.
- (c) Insertion of the commencement date
- (d) Other minor editing has been done in accordance with the lawful powers of the Attorney General.
  - (i) “Every” and “any” changed to “a/an”
  - (ii) Present tense drafting style:
    - “shall be” changed to “is/are” or “is/are to be”
    - “shall be deemed” changed to “is taken”
    - “shall have” changed to “has”
  - (iii) Removal/replacement of obsolete and archaic terms
    - “notwithstanding” changed to “despite”

- “pursuant to” or “in accordance with the provisions of” changed to “under”
- “furnish” changed to “provide”
- (iv) Numbers in words changed to figures
- (v) Removal of superfluous terms:
  - “the generality of”
  - “from time to time” (or “at any time”) removed
- (vi) “the foregoing provisions of this section”, “the preceding subsection” and similar wording changed to the actual section/subsections

There were no amendments made to this Act since the publication of the *Consolidated and Revised Statutes of Samoa 2007*.

At the commencement of the *Gaming Control Act 2017*, No. 23 this Act shall be repealed.



Lemalu Hermann P. Retzlaff  
Attorney General of Samoa

*This Act is administered by  
the Ministry of Finance.*

---