



PARLIMEN MALAYSIA



BILL

Racing (Totalisator Board)

D.R.05/1961

A BILL

D. R. No.

5-61

intituled

An Act to provide for the establishment of a Totalisator Agency Board, the powers of such Board, the conduct of betting by agencies of such Board, and for matters incidental thereto.

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BE IT ENACTED by the Duli Yang Maha Mulia Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Ra'ayat in Parliament assembled, and by the authority of the same as follows:

1. This Act may be cited as the Racing (Totalisator Agency Board) Act, 1961, and shall come into operation on such date as the Minister may by notification in the *Gazette* appoint.

Short title and commencement.

2. In this Act, unless the context otherwise requires—

Interpretation.

“approved scheme” means a scheme for the establishment and operation of totalisators and totalisator agencies for the time being approved by the Minister pursuant to section 16;

“the Board” means the Totalisator Board established by section 3;

“horse race” includes a pony race;

“Minister” means the Minister for the time being charged with responsibility for the Board;

“race course” means any land used for the purpose of a race meeting;

“race meeting” means a meeting for the purpose of horse racing;

“Senior Police Officer” means any police officer not below the rank of Assistant Superintendent, and includes any other public officer authorised by the Minister by notification in the *Gazette* to exercise the powers of a Senior Police Officer under this Act;

“totalisator” means the instrument for wagering or betting known by that name, and any other instrument, device, machine or method of a like nature and conducted on the same principles, and includes a numbers forecast totalisator paying a fixed minimum dividend;

“totalisator agency” means any totalisator agency operated in accordance with an approved scheme, and includes any premises in which totalisator investments may be received pursuant to such scheme;

“totalisator investment” means any money, currency note or cheque received for investment on the totalisator or invested pursuant to any facilities provided under an approved scheme;

“turf club” means any club, association or other body of persons (whether incorporated or unincorporated) established for the purpose of promoting, conducting and controlling the sport of horse racing.

PART I

THE TOTALISATOR BOARD

3. (1) There is hereby established a Board, which shall be a body corporate, by the name of the Totalisator Board.

(2) The Board shall have perpetual succession and a common seal and may sue and be sued in its said name and, subject to and for the purposes of this Act, may enter into contracts and acquire, purchase, take, hold and enjoy movable and immovable property of every description and may convey, assign, surrender, yield up, charge, mortgage, demise, reassign, transfer or otherwise dispose of or deal with any movable or immovable property or any interest therein vested in the Board upon such terms as the Board may think fit.

4. The Board shall, subject to the provisions of this Act, have the following powers—

- (a) the powers specified in any approved scheme;
- (b) power to conduct equine research and to establish, maintain and improve turf clubs, training centres for apprentices, jockeys, blacksmiths and others employed in connection with racing, and other places used in connection with racing;
- (c) power to carry on all other activities which appear to the Board requisite, advantageous or convenient for or in connection with the objects of this Act and their powers thereunder and for the improvement of racing generally in the Federation.

5. (1) The Board shall consist of the following members, appointed by the Minister—

- (a) two members who shall be appointed upon the nomination of the governing body of the Selangor Turf Club;
- (b) two members who shall be appointed upon the nomination of the governing body of the Perak Turf Club;

Establishment and incorporation of the Board.

Powers of the Board.

Constitution of the Board.

- (c) two members who shall be appointed upon the nomination of the governing body of the Penang Turf Club;
- (d) members appointed pursuant to any order made under sub-section (3);
- (e) two other members.

(2) If at any time any of the bodies referred to in sub-section (1) fails to submit to the Minister a nomination of a person or persons for the purposes of this section within twenty-eight days after the receipt of a request in writing from the Minister in that behalf the Minister may without such nomination appoint any person or persons to be a member or members of the Board, and the person or persons so appointed shall for all purposes be deemed to be duly appointed.

(3) In the event of there being established in the Federation any turf club additional to any of the turf clubs referred to in sub-section (1) the Yang di-Pertuan Agong may by order provide for representation of such club upon the Board; and the provisions of sub-section (2) shall thereupon apply to the governing body of every such club.

(4) The Minister of Finance may from time to time appoint a public officer to take part in the proceedings of the Board and any committee thereof, but such officer shall not have any vote in any such proceedings.

6. (1) The members of the Board shall, subject to the provisions of this Part, be appointed to hold office for such term, not exceeding three years, as the Minister shall determine upon making the appointment.

Tenure of
office.

(2) A member of the Board shall be eligible for re-appointment.

(3) If any member of the Board—

- (a) is absent without the permission of the Board from four consecutive meetings of the Board; or
- (b) becomes bankrupt or compounds with his creditors; or
- (c) is convicted of any offence by a court of law in the Federation and sentenced to imprisonment for a term of not less than one year, and has not received a free pardon; or
- (d) becomes insane; or
- (e) accepts or holds any office of profit under the Board or is directly or indirectly concerned in any contract with the Board or participates in or derives or is

entitled to any benefit either directly or indirectly from any work done or to be done for or goods supplied to or to be supplied to the Board; or

(f) resigns; or

(g) dies; or

(h) in the case of any member nominated by any of the bodies referred to in sub-section (1) of section 5, ceases to be a nominee of such body,

his seat shall thereupon become vacant, and every such vacancy shall be deemed to be an extraordinary vacancy.

(4) On the occurrence of any vacancy in the office of a member of the Board a person shall be appointed pursuant to the provisions of this Part to fill the vacancy; and any person appointed to fill an extraordinary vacancy shall, subject to the provisions of this Part, hold office for the remainder of the term of office of the person in whose place he is appointed.

Chairman.

7. (1) The Chairman of the Board shall be appointed by the Minister from among the members of the Board and shall hold office for such period, not exceeding three years, as the Minister may direct.

(2) The Chairman shall vacate his office as chairman if he ceases to be a member of the Board.

(3) Any vacancy occurring in the office of chairman, otherwise than by effluxion of the period for which he was appointed, shall be filled by the appointment of a member of the Board for the balance of the term of office of the person in whose place he is appointed.

(4) A person ceasing to be chairman of the Board shall be eligible for re-appointment as chairman.

(5) At any meeting of the Board—

(a) held during any vacancy in the office of chairman; or

(b) at which the chairman is not present,

a person elected for that purpose from the members by the members present at the meeting shall act as chairman of the meeting and may exercise the powers conferred on the chairman.

Procedure,
etc., of the
Board.

8. (1) The quorum of the Board shall be five members.

(2) All questions at meetings of the Board shall be determined by a majority of the members personally present and voting; each member present shall be entitled to cast one vote, and in the event of an equality of votes the member presiding shall have a second or casting vote.

(3) Members of the Board shall not be entitled to any remuneration but may be paid by the Board allowances in respect of such matters and at such rates as may from time to time be fixed by the Board with the approval of the Minister.

(4) The Board may invite any person to attend meetings of the Board and to take part in proceedings of the Board, but such person shall not be entitled to cast a vote in such proceedings.

9. (1) The Board may appoint such officers, agents and employees as it deems necessary for the efficient carrying out of its functions under this Act.

Officers,
agents, etc.,
of the
Board.

(2) Except in accordance with and subject to the provisions of an approved scheme, the Board shall not make or agree to make to any officer, agent or employee of the Board any payment by way of commission, fee, reward or other remuneration which is calculated or determined or affected by reference, directly or indirectly, to the amount of any totalisator investment received by the Board or by that officer, agent or employee on behalf of the Board.

(3) The provisions of sub-sections (1) and (2) of section 26 of the Civil Law Ordinance, 1956 (which relate to agreements by way of gaming and wagering) shall not be deemed to apply to any contract or agreement between the Board and any officer, agent or employee of the Board.

5 of 1956.

10. (1) Any contract which, if made between private persons—

Contracts
of the
Board.

- (a) must be by deed shall, when made by the Board, be in writing under the common seal of the Board;
- (b) must be in writing signed by the parties to be charged therewith shall, when made by the Board, be either in writing under the seal of the Board or in writing signed by any person acting on behalf and under the express or implied authority of the Board;
- (c) may be made orally may, in the case of any contract (other than a contract involving the payment by the Board of any sum in excess of two hundred and fifty dollars) be similarly made by any person acting on behalf of and under the express or implied authority of the Board.

(2) Notwithstanding anything in sub-section (1), no contract made by or on behalf of the Board shall be invalid by reason only that it was not made in the manner provided by this section, if it was made pursuant to or to give effect to a resolution of the Board.

(3) Nothing in this section shall be construed to limit the powers of the Board with respect to the acceptance or receipt of totalisator investments in accordance with an approved scheme and any rules or regulations under this Act.

Financial
duties of the
Board.

11. The Board shall cause proper books and accounts to be provided and true and regular records to be entered therein of all transactions of the Board, and such books and accounts shall be open at all reasonable times to the inspection of such public officers as the Minister of Finance may from time to time appoint.

Borrowing
powers of
the Board.

12. With the approval of the Minister and of the Minister of Finance the Board may borrow moneys, whether by way of mortgage, charge, overdraft or otherwise, and may charge all or any of its movable or immovable property, whether present or future, in such manner as it thinks fit.

Audit.

13. (1) The Board shall appoint one or more auditors who shall, throughout the year, inspect and examine the accounts of the Board.

(2) The appointment of any person as auditor under sub-section (1) shall require the prior approval of the Minister of Finance.

(3) An auditor appointed under this section shall on or before the thirtieth day of June in each year submit to the Board and to the Minister of Finance an annual report on the accounts of the Board in respect of the preceding year, and shall in his report draw attention to all cases in which it shall appear to him that the provisions of this Act or of any approved scheme or regulations or rules made thereunder have not been complied with.

Rules of
the Board.

14. The Board may from time to time make rules, not inconsistent with the provisions of this Act or any approved scheme or regulations made thereunder, for all or any of the following purposes—

- (a) regulating its own procedure and the conduct of its meetings;
- (b) providing for the custody of its property and the use of its common seal;
- (c) prescribing the duties of its officers, agents and employees;
- (d) with the approval of the Minister, controlling the admission of persons to any totalisator and totalisator agency, and providing for the exclusion from any such agency of any specified class or description of

persons, either absolutely or subject to such conditions as may be prescribed;

- (e) such other purposes as the Board may consider necessary or expedient for the operation of any approved scheme or for carrying out the functions of the Board.

15. The Board shall, as soon as practicable after the end of each year, cause to be made and transmitted to the Minister a report dealing generally with the activities of the Board during the preceding year, and containing such information relating to the finances and policy of the Board as the Minister may from time to time direct.

Report of
the Board.

PART II

TOTALISATORS AND TOTALISATOR AGENCIES

16. (1) The Board shall, not later than a day to be appointed in that behalf by the Minister by notice in writing addressed to the chairman of the Board, submit to the Minister for his approval a scheme for the establishment and operation of totalisators and totalisator agencies in respect of race meetings.

Approval of
totalisator
agency
scheme.

(2) Any scheme prepared under this section may provide for—

- (a) the administration of the scheme, and for the establishment, maintenance and operation of totalisators and totalisator agencies and for the carrying out of the functions of the Board under the scheme;
- (b) the receiving at totalisators and totalisator agencies of totalisator investments in respect of horse races, the credit facilities in respect of such investments, the manner in which such investments may be made and the times at which and the conditions upon or subject to which such investments may be made and received;
- (c) the transmission or not, as the case may be, of particulars of the investments referred to in paragraph (b) of this sub-section to the totalisator on the race course where the race meeting is being held, and for failure of such transmission;
- (d) the payment at or from totalisators and totalisator agencies of dividends payable in respect of totalisator investments received and the times at which and the manner in which such dividends may be paid;
- (e) the method of calculation of the dividends payable as aforesaid out of moneys received as totalisator investments;

- (f) the method of accounting as between the Board, turf clubs and totalisator agencies in respect of investments, dividends and commission;
- (g) such other matters as may be necessary for the proper operations and control of totalisators and totalisator agencies, or for the operation of the scheme.

(3) The Board may from time to time submit to the Minister for his approval any variation of any scheme or any part thereof for the time being in force under this section, or any new scheme in substitution for any such scheme as aforesaid.

(4) No scheme or any part thereof, and no variation of any such scheme or part thereof, shall come into force until approved in writing by the Minister.

(5) Every approved scheme and any variation thereof shall be published in the *Gazette*.

(6) The Yang di-Pertuan Agong may by order notified in the *Gazette* suspend or revoke any approved scheme or variation of an approved scheme, or any part thereof, and any such suspension or revocation shall have the effect of a repeal of such scheme or part, as the case may be.

Calculation
of dividend.

17. (1) Except as may be provided under any approved scheme it shall be the duty of the Board and of any turf club operating a totalisator on behalf of the Board under an approved scheme to pay out by way of dividend all moneys received from investments on the totalisator after deducting—

6 of 1948.

- (a) the amount of any duty charged under section 2 of the Betting and Sweepstake Duties Ordinance, 1948; and
- (b) by way of commission ten *per centum*, or such other amount (whether greater or lesser than ten *per centum*) as may be prescribed by any regulations made under section 29, of all such moneys:

Provided that—

- (i) it shall not be necessary to pay out fractions of a dollar;
- (ii) any investment on any horse which is scratched or otherwise withdrawn in accordance with the rules of racing applied by any approved scheme shall be refunded without deduction of such duty and commission;
- (iii) the total of such duty and commission shall not at any time exceed twenty *per centum* of such investment.

(2) No money received by the Board pursuant to any approved scheme through any turf club in the State of Singapore referred to in any declaration under section 18 for investment on horse races in the Federation shall be liable for duty or commission in accordance with sub-section (1) above.

18. (1) Where the Minister is satisfied—

Special provisions relating to Singapore.

- (a) that the members and officers of any turf club in the State of Singapore are exempted generally from the provision of any law relating to common gaming houses for the time being in force in that State; and
- (b) that the Board is willing to receive in accordance with an approved scheme totalisator investments from any such club for investment on horse races in the Federation; and
- (c) that suitable arrangements have been or are being made in the State of Singapore in order to exempt from the provisions of any law relating to betting and sweepstake duties for the time being in force in that State any investments made by or on behalf of the Board with any club referred to in paragraph (a) on horse races in the State of Singapore,

he may by notification in the *Gazette* declare that the provisions of this section shall apply to any money received by the Board from or through the agency of any such club for investment on horse races in the Federation.

(2) Where any declaration under sub-section (1) is in force all moneys received by the Board from or through the agency of any club specified in such notification for investment on horse races in the Federation shall be exempt from the provisions of paragraphs (a) and (b) of sub-section (1) of section 17, and of section 2 of the Betting and Sweepstake Duties Ordinance, 1948.

6 of 1948.

19. (1) The sum deducted by way of commission in accordance with paragraph (b) of sub-section (1) of section 17, together with any fractional money arising pursuant to the operation of paragraph (i) of the proviso to sub-section (1) of section 17 shall be deemed for all purposes to belong to and form part of the general funds of the Board and may be apportioned between the Board and the turf clubs in such proportion and in such manner as may be approved by the Minister under an approved scheme.

Proportion of deduction from investment to belong to the Board.

(2) The sum apportioned to and retained by the Board by way of commission and fractional money pursuant to the provisions of sub-section (1) shall not be liable to income tax.

Distribution
of funds of
the Board.

20. Subject to any regulations made under section 29, the Board may from time to time distribute any moneys forming part of the funds of the Board and not required by it in the exercise of its powers under section 4 for all or any of the following purposes—

- (a) social and welfare purposes including the welfare of the blind, handicapped and under-privileged, the relief of poverty, the treatment of tuberculosis and the fostering of non-political youth movements; and
- (b) the promotion of sport generally in the Federation including the provision of playing fields.

PART III

MISCELLANEOUS

Admission
to race
courses.

21. (1) A turf club may admit members of the public to any race course or premises under the control or supervision of the club or of any one or more of the officers of such club on payment of an admission fee.

(2) Where an admission fee is charged under subsection (1), such admission fee shall be subject to the payment of duty under the Entertainments Duty Ordinance, 1953.

(3) A turf club may from time to time, with the approval of the Minister, make by-laws controlling the admission of persons to any race course or premises used or occupied by such club for race meetings or for the placing of investments on the totalisator.

(4) Any by-laws made under this section may provide for the exclusion from a race course or such premises of any specified class or description of persons, either absolutely or subject to such conditions as may be prescribed by such by-laws.

(5) The provisions of this section—

- (a) shall be applicable to any race course notwithstanding the fact that it is or forms part of a reserve or other place in respect of which there exists a right of public use or entry;

25 of 1953.

- (b) shall not be deemed to limit the power of any club to exclude or remove any person from any race course occupied by such club and which is free from such right of public use of entry.

(6) Any person who commits a breach of any by-law made under this section may be removed from the race course by any member, officer, agent or employee of the turf club by which such by-law was made, or by any police officer.

(7) All by-laws made under this section shall be published in the *Gazette*, and the cost of such publication shall be borne by the turf club by which the by-laws were made.

22. (1) Notwithstanding the provisions of any other law to the contrary it shall be lawful for—

Authority of totalisator operations and investments in accordance with approved scheme.

- (a) totalisator investments in respect of horse races to be lodged and received, and for dividends to be paid in respect of such investments, in accordance with an approved scheme;
- (b) any person of or above the age of eighteen years to buy a ticket or chance or take part in any totalisator operated in accordance with an approved scheme, notwithstanding that he is not a member of a turf club.

(2) Where any totalisator is operated in accordance with an approved scheme no person shall be liable in respect of the use of such totalisator to any penalty or forfeiture under the Common Gaming Houses Ordinance, 1953, or the Betting Ordinance, 1953, or any law for the time being in force relating to gaming, betting or lotteries.

26 of 1953.
47 of 1953.

23. (1) Notwithstanding anything contained in any written law, it shall not be an offence for any person—

Certain advertisements relating to totalisator agencies not unlawful.

- (a) to exhibit the name of any totalisator agency on any premises in which the agency is situated;
- (b) to publish in any newspaper, by or on behalf of the Board, any advertisement setting out any list of totalisator agencies, the name, address, hours of business and any telephone number of any totalisator agency, any rules, terms or conditions upon or subject to which totalisator investments may be received at any such agency, or the name of any race meeting in respect of which totalisator investments may for the time being be received at any such agency;

- (c) to exhibit inside any totalisator agency any notice relating to any of the matters referred to in paragraph (b) of this sub-section.

(2) Nothing in sub-section (1) shall be construed to authorise the exhibition or publication of any matter intended to induce any person to make any totalisator investment.

Laying of
totalisator
odds, etc.,
prohibited.

24. (1) Any person who—

- (a) makes or enters into a bet upon the result of a horse race, whereby he agrees to pay to the other party to the said bet, if the latter should win the bet, a sum of money the amount of which is dependent upon the result of the working of the totalisator on the said race; or
- (b) sells or offers for sale, or who purchases from any person referred to in paragraph (a), any ticket, card or thing entitling or purporting to entitle the purchaser or holder thereof to any interest in the result of the working of the totalisator on any horse race; or
- (c) makes any contract or bargain of any kind to pay or receive money upon an event determined or to be determined by the result of the working of the totalisator on any horse race,

shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding three months or to a fine not exceeding five hundred dollars, or to both such imprisonment and fine.

(2) The provisions of paragraphs (a) and (b) of sub-section (1) shall not apply to the Board or any officer, agent or employee of the Board or any turf club while engaged in the lawful conduct of any totalisator or totalisator agency in accordance with an approved scheme.

Investment
on totalisa-
tor after
time of race
prohibited.

25. Subject to the provisions of any approved scheme and any regulations made under section 29, any member, officer, agent or employee of the Board or of any turf club who—

- (a) receives or permits to be received any investment on the totalisator in respect of any race after the start of such race; or

- (b) registers on the totalisator after the start of any race any moneys received for investment in respect of that race; or
- (c) takes into account in the calculation or payment of any dividend any investment which has not been publicly registered on the totalisator in accordance with this section; or
- (d) receives or permits to be received any investment on the totalisator elsewhere than at the totalisator itself; or
- (e) makes, authorises or permits the payment to any person of any dividend which is not calculated in accordance with the provisions of section 17,

shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand dollars.

26. Any police officer not below the rank of Inspector may arrest without warrant any person whom he has reason to believe has committed an offence against section 24 or 25, and take him before a Magistrate to be dealt with according to law. Power of arrest.

27. A Senior Police Officer may at any time enter for the purpose of inspection any premises in which any totalisator or totalisator agency is operated, and may during such inspection examine any books, accounts, records or other documents, or any machine or equipment, for the time being used in the operation of the totalisator or agency, and seize any such books, accounts, records, documents, machine or equipment which he has reasonable cause to believe to be evidence of the commission of any offence against this Act, and may demand from any person for the time being having the care and management of the totalisator or agency or any part thereof any information that he deems necessary for the purpose of the inspection. Inspection of totalisators and totalisator agencies.

28. A prosecution for any offence against section 25 shall not be instituted except by or with the consent of the Public Prosecutor. Restriction on prosecution.

29. The Yang di-Pertuan Agong may from time to time make such regulations as he may consider necessary or expedient to give effect to the provisions of this Act and for the due administration thereof. Power to make regulations.

TABLE OF CONTENTS

Section

1. Short title and commencement.
2. Interpretation.

PART I

THE TOTALISATOR BOARD

3. Establishment and incorporation of the Board.
 4. Powers of the Board.
 5. Constitution of the Board.
 6. Tenure of office.
 7. Chairman.
 8. Procedure, etc. of the Board.
 9. Officers, agents, etc. of the Board.
 10. Contracts of the Board.
 11. Financial duties of the Board.
 12. Borrowing powers of the Board.
 13. Audit.
 14. Rules of the Board.
 15. Report of the Board.
-

PART II

TOTALISATORS AND TOTALISATOR AGENCIES

16. Approval of totalisator agency scheme.
 17. Calculation of dividend.
 18. Special provisions relating to Singapore.
 19. Proportion of deduction from investment to belong to the Board.
 20. Distribution of funds of the Board.
-

PART III

MISCELLANEOUS

21. Admission to race courses.
22. Authority of totalisator operations and investments in accordance with approved scheme.
23. Certain advertisements relating to totalisator agencies not unlawful.
24. Laying of totalisator odds, etc. prohibited.
25. Investment on totalisator after time of race prohibited.
26. Power of arrest.
27. Inspection of totalisators and totalisator agencies.
28. Restriction on prosecution.
29. Power to make regulations.

EXPLANATORY STATEMENT

The above Bill is designed to establish as a body corporate (*clause 3*) a Totalisator Board consisting (*clause 5*) of two nominees from each of the Selangor, Perak and Penang Turf Clubs, and two nominees of the Government, which will also have power to appoint one of the members of the Board as chairman (*clause 7*). Members of the Board will hold office for a maximum period of three years, and will be subject to certain disqualifications, set out in *clause 6* of the Bill. The Minister of Finance may (*clause 5 (4)*) appoint a public officer to take part (but not vote) in proceedings of the Board, and his approval, together with that of the Minister charged with responsibility for the Board, will be necessary to the exercise of the borrowing powers conferred on the Board by *clause 12*.

2. The Board may, pursuant to any scheme prepared by the Board and approved by the Minister under *clause 16*, administer a scheme for on-the-course and off-the-course betting, and may also (*clause 4*) conduct equine research and establish, maintain and improve turf clubs, training centres for apprentices, jockeys, blacksmiths, etc. Members of the Board will themselves not be entitled to any remuneration (*clause 8 (3)*) but may receive such allowances in respect of their duties as the Minister may approve. The Board may appoint officers, agents and servants (*clause 9*) and enter into contracts (*clause 10*), must make its books and accounts available for inspection by such public officers as the Minister of Finance may appoint (*clause 11*), and must submit annual reports on its finances and policy to the Minister (*clause 15*).

3. The principal functions of the Board will arise under a scheme approved by the Minister under *clause 16* of the Bill, under which the Board may provide for the establishment and operation, etc., of totalisators and totalisator agencies, all of which will (*clause 27*) be open to inspection by Senior Police Officers (as defined in *clause 2*). A scheme may set out in detail the method of administration by the Board of an on-the-course and off-the-course betting scheme, and is liable to suspension or cancellation by the Yang di-Pertuan Agong. Once such a scheme has been approved, it will be lawful for bets to be placed on horse races in accordance with an approved scheme, and for members of the public to buy tickets or chances therein (*clause 22*). Moneys received from bets placed under an approved scheme will be liable to deductions in respect of duty under the Betting and Sweepstake Duties Ordinance, 1948, and commission, in accordance with the provisions of *clause 17*, subject to a saving in respect of any such moneys received under an approved scheme from any Singapore turf club which is the subject of any declaration made by the Minister under *clause 18*. The commission so deducted may be apportioned between the Board and the turf clubs participating in any approved scheme, such apportionment being, in the case of the Board, free of tax (*clause 19*): the Board also being empowered to distribute its surplus funds on social welfare and sporting purposes, etc. (*clause 20*).

4. Part III of the Bill contains a number of miscellaneous ancillary provisions. *Clause 21* enables turf clubs to regulate the admission to race-courses of members of the public, and *clause 23* provides that certain advertisements relating to activities of the Board shall not be unlawful, provided they are not intended to induce persons to make bets on totalisators. *Clause 24* prohibits the laying of bets on totalisator odds, etc., and *clause 25* is designed to prevent any malpractice by agents of the Board, etc: these two clauses being coupled with a power of arrest (*clause 26*) and, in the case of *clause 25*, with a restriction on prosecution (*clause 28*). Finally, by *clause 29* the Yang di-Pertuan Agong is given power to make regulations in order to give effect to the provisions of the Act.

[A.G. 364/53 V.]

