

Racing Reform Bill

Government Bill

As reported from the committee of the whole House

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Key to symbols used in reprinted bill

As reported from the committee of the whole House

text inserted

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Rt Hon Winston Peters

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Racing Reform Act **2019**.

2 Commencement

- (1) This following provisions come into force on **1 July 2019**: 5
- (a) **Part 1**:
- (b) **sections 26, 27(1), 28(1) and (4), and 29**.
- (2) **Section 28(2)** comes into force on **1 July 2020**.
- (3) **Section 28(3)** comes into force on **1 July 2021**.
- (4) **Sections 27(2) and 30 to 32** come into force on **21 September 2021**. 10

Part 1

Amendments to Racing Act 2003

3 Principal Act

This Part amends the Racing Act 2003 (the **principal Act**).

Amendments to Part 1 (preliminary provisions) 15

4 Section 4 amended (Outline)

- (1) Replace section 4(3) with:
- (3) Part 2 continues the New Zealand Racing Board and renames it the Racing Industry Transition Agency. 20
- (2) After section 4(7), insert:
- (7A) **Part 6AA** requires offshore betting operators to pay charges in New Zealand in respect of their betting operations that involve racing events or sporting events held in New Zealand and from bets they take from people located in New Zealand. 25
- (3) Repeal section 4(9). 25

5 Section 5 amended (Interpretation)

- (1) In section 5(1), repeal the definitions of **Board**, **Board member**, **Board operator**, and **Board venue**.
- (2) In section 5(1), insert in their appropriate alphabetical order:
- Agency** means the New Zealand Racing Board as continued and renamed the Racing Industry Transition Agency under **section 7** 30
- Agency member** means a member of the governing body of the Agency
- Agency operator** means a person supervising an Agency venue

Agency venue means premises that are owned or leased by the Agency and where the main business carried on at the premises is providing racing betting or sports betting services under this Act

New Zealand national sporting organisation means an organisation that meets the criteria laid down by Sport and Recreation New Zealand for receiving financial support from that agency, whether or not the organisation actually receives the support

transition period means the period commencing on 1 July 2019 and ending with the close of **30 June 2020** or any later date specified by Order in Council made under **section 68A**.

(3) In section 5(1), replace the definition of **sporting event** with:

sporting event means any lawful organised game, competition, or other event involving human competitors, held in or outside New Zealand, in respect of which one of the following applies:

- (a) a New Zealand national sporting organisation administers the sport concerned in New Zealand:
- (b) there is a New Zealand national sporting organisation under whose auspices or control the event is conducted (or, in the case of an event held outside New Zealand, under whose auspices or control the event would be conducted if it were held in New Zealand):
- (c) there is an agreement in accordance with **section 55A(2) and (3)** between the Agency and Sport and Recreation New Zealand that relates to the sport concerned

6 New section 6A inserted (Transitional, savings, and related provisions)

After section 6, insert:

6A Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in **Schedule 1AA** have effect according to their terms.

Amendments to Part 2 (New Zealand Racing Board)

7 Part 2 heading replaced

Replace the Part 2 heading with:

**Part 2
Racing Industry Transition Agency**

8 Section 7 replaced (Establishment of Board)

Replace section 7 with:

7	Continuation and renaming of Board	
(1)	The body called the New Zealand Racing Board—	
	(a) is continued; and	
	(b) is renamed the Racing Industry Transition Agency (the Agency).	
(2)	The Agency—	5
	(a) is a body corporate; and	
	(b) is a legal entity separate from its members, office holders, and employees, and the Crown.	
(3)	The Agency has, both within and outside New Zealand,—	
	(a) full capacity to carry on or undertake any business or activity, do any act, or enter into any transaction; and	10
	(b) for the purposes of paragraph (a) , full rights, powers, and privileges.	
(4)	Subsection (3) applies subject to this Act, any other enactment, and the general law of New Zealand.	
9	Section 8 amended (Objectives of Board)	15
(1)	In the heading to section 8, replace “ Board ” with “ Agency ”.	
(2)	In section 8, replace “Board” with “Agency”.	
(3)	Before section 8(a), insert:	
	(aa) to reform New Zealand racing in a manner that supports effective governance and improves industry sustainability; and	20
10	Section 9 amended (Functions of Board)	
(1)	In the heading to section 9, replace, “ Board ” with “ Agency ”.	
(2)	In section 9(1), replace “Board” with “Agency” in each place.	
(3)	Before section 9(1)(a), insert:	
	(aa) to lead and manage the reform of New Zealand racing during the transition period, including (without limitation) by—	25
	(i) implementing a fit-for-purpose organisational structure for the governance of the racing industry:	
	(ii) preparing for the transfer of the Agency’s functions to the racing codes and its successor organisation:	30
	(iii) supporting sustainability of the racing industry by undertaking initiatives to ensure efficiency and drive revenue growth:	
	(iv) carrying out any other things necessary or desirable to promote the objective of reforming New Zealand racing:	
(4)	In section 9(1)(d), replace “sections 16 and 17” with “regulations made under section 16 ”.	35

- (5) In section 9(2), replace “Board” with “Agency”.

11 Section 11 replaced (Membership of governing body)

Replace section 11 with:

11 Membership of governing body

- (1) The governing body may consist of up to 7 members appointed by the Minister. 5
- (2) An appointment must be made by written notice to the person concerned.
- (3) The Minister must appoint a chairperson from among the members.
- (4) In appointing members, the Minister must have regard to the need for the governing body to have available to it, collectively, from its members,—
- (a) knowledge of, or experience in, the racing industry and sport administration at a national level; and 10
- (b) expertise in organisational change and governance, including relevant commercial or legal expertise to manage organisational change; and
- (c) expertise in business, marketing, or economics.
- (5) The Minister must notify an appointment in the *Gazette* as soon as practicable after making the appointment. 15
- (6) An appointed person holds office during the transition period and, if a vacancy occurs during that period, an appointment may be made by the Minister to fill that vacancy for the remainder of the period.

12 Section 12 repealed (Nomination advisory panel) 20

Repeal section 12.

13 Sections 16 and 17 replaced

Replace sections 16 and 17 with:

16 Regulations for amounts of distribution to codes

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations prescribing the method to be used for determining the amounts that may be distributed by the Agency to the racing codes from any surpluses referred to in section 53(2) or 57(2) or any other source, whether capital or income. 25
- (2) For the purposes of **subsection (1)**, the amount must not be less than the total of the surpluses referred to in section 53(2) and 57(2) for that racing year less the total amount credited to reserves for that year from those surpluses. 30

17 Distribution to codes

- (1) The Agency may, during or after a racing year, pay to the racing codes the amount determined in accordance with regulations made under **section 16** to be distributed among the codes for that year. 35

- (2) The Agency may withhold all or any part of an amount to be distributed to a code if it has not yet approved the code's statement of intent and business plan under section 23.
- 17A Regulations relating to distribution from betting profits**
- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations prescribing the method to be used for determining the amounts that may be—
- (a) distributed by the Agency from its betting profits to—
 - (i) the racing codes; and
 - (ii) Sport and Recreation New Zealand; and
 - (b) retained by the Agency from its betting profits for the purpose of carrying out its duties in relation to harm prevention and minimisation in relation to racing betting and sports betting.
- (1A) However, regulations made under **subsection (1)(a)** must not result in an amount to be distributed that exceeds,—
- (a) for the period beginning on **1 July 2019** and ending on **30 June 2020**, 1.33% of the Agency's betting profits:
 - (b) for the period beginning on **1 July 2020** and ending on **30 June 2021**, 2.67% of the Agency's betting profits:
 - (c) for any period on or after **1 July 2021**, 4% of the Agency's betting profits.
- (2) In this section, **betting profits** means profits for totalisator racing betting, sports betting, and fixed-odds racing betting conducted by the Agency calculated in accordance with the following formula:
- $$p = a - b - c$$
- where—
- p is betting profits
 - a is the total of all amounts received by the Agency or its agents (including the net return from bets laid off) for—
 - (i) totalisator racing betting (other than equalisator betting conducted under section 51):
 - (ii) sports betting:
 - (iii) fixed-odds racing betting
 - b is the amount of refunds paid
 - c is the amount of all winning dividends paid out in respect of amounts described above.
- (3) Before making a recommendation under **subsection (1)**, the Minister must consult the Minister for Sport and Recreation.

14 Section 24 amended (Restriction on use of certain names)

(1AA) In section 24(1), replace “the Board” with “the Agency”.

(1) After section 24(1)(a), insert:

(aa) “Racing Industry Transition Agency”; or

(2) Replace section 24(4) with:

(4) Subsections (1)(a), **(aa)**, and (b) do not apply to the Agency.

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Amendments to Part 6 (betting)

15 Section 50 amended (Board may conduct betting)

(1) In the heading to section 50, replace “**Board**” with “**Agency**”.

(2) In section 50, replace “Board” with “Agency” in each place.

(3) In section 50(b), delete “except as provided in section 55,”.

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16 Section 53 amended (Application of revenue from racing betting)

(1) In section 53(1), replace “Board” with “Agency” in each place.

(2) After section 53(1)(c), insert:

(ca) the distribution of betting profits (if any) in accordance with **section 17A**; and

(3) In section 53(2), replace “Board” with “Agency”.

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17 Section 54 amended (Board may make rules relating to sports betting)

(1) In the heading to section 54, replace “**Board**” with “**Agency**”.

(2) In section 54(1) and (2), replace “Board” with “Agency” in each place.

(3) After section 54(2)(b), insert:

(ba) may declare sporting events to be, or not to be, New Zealand sporting events for the purposes of **Part 6AA**; and

(4) After section 54(2), insert:

(3) The Agency must consult Sport and Recreation New Zealand before exercising its powers under this section to make rules declaring sporting events to be, or not to be, New Zealand sporting events for the purposes of **Part 6AA**, or to make rules amending or revoking those rules.

(4) The Agency must publish the notice making, altering, or revoking the rules referred to in **subsection (3)** on an Internet site maintained by or on behalf of the Agency.

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18 Section 55 amended (Agreements with national sporting organisations)

Repeal section 55(3).

19 New section 55A inserted (Agreements with Sport and Recreation New Zealand)

After section 55, insert:

55A Agreements with Sport and Recreation New Zealand

- (1) This section applies if, in relation to a sport involving human competitors participating in lawful organised games, competitions, or other events held in or outside New Zealand, there is no appropriate New Zealand national sporting organisation— 5
- (a) that administers the sport in New Zealand; or
- (b) under whose auspices or control the events held in New Zealand are conducted (or, in the case of events held outside New Zealand, would be conducted if they were held in New Zealand). 10
- (2) Despite section 55(1), the Agency may conduct sports betting on any event held in relation to the sport concerned if it has entered into a sports betting agreement with Sport and Recreation New Zealand that complies with **subsection (3)**. 15
- (3) A sports betting agreement must be on the terms and conditions agreed between the parties, including (without limitation) as to payment to Sport and Recreation New Zealand, under **section 57(1)(da)**, of revenue from sports betting on the event or events to which the agreement relates. 20

20 Section 57 amended (Application of revenue from sports betting)

- (1) In section 57(1), replace “Board” with “Agency” in each place.
- (2) Replace section 57(1)(d) with:
- (d) the distribution of betting profits (if any) in accordance with **section 17A**; and 25
- (da) the amounts (not less than the minimum amounts prescribed by, or calculated in accordance with, the method prescribed in regulations under **section 68A**) payable to New Zealand national sporting organisations and Sport and Recreation New Zealand under agreements entered into under sections 55 and **55A**; and 30
- (3) In section 57(2), replace “Board” with “Agency”.

New Part 6AA

21 New Part 6AA inserted

After section 65, insert:

Part 6AA
Offshore betting charges

65AA Purpose and overview of this Part

- (1) The purpose of this Part is to provide a framework under which offshore betting operators must pay charges in New Zealand in respect of their betting operations involving this country. These charges are to recognise the financial returns that offshore betting operators enjoy from bets that they take on racing and sporting events held in New Zealand and from bets that they take from people located in New Zealand. 5
- (2) To that end, this Part— 10
 - (a) establishes a scheme for betting information use charges that requires offshore betting operators to—
 - (i) obtain permission from the designated authority in New Zealand before using New Zealand racing and sporting information for taking bets on racing events and sporting events taking place in New Zealand; and 15
 - (ii) enter into an agreement with that authority setting out the terms and conditions on which the authority’s permission is granted, including the offshore betting operator’s agreement to pay charges for using that information in the operator’s betting operations: 20
 - (b) establishes a scheme for consumption charges that requires offshore betting operators to pay charges in respect of bets that they take on racing events and sporting events from persons located in New Zealand, whether those events are held in or outside New Zealand:
 - (c) provides for the designated authority (or its delegate) to implement each scheme, including collecting the charges and applying the money received from the charges to purposes relating to racing and sport in New Zealand. 25
- (3) **Subsection (2)** is only a guide to the general scheme and effect of this Part. 30

65AB Territorial scope 30

This Part and any regulations made under it apply to an offshore betting operator regardless of where that offshore betting operator is resident or incorporated.

65AC Interpretation 35

In this Part, unless the context otherwise requires,—

betting information use agreement means an agreement referred to in **section 65AF(1)(b)**

betting information use charges means the charges payable under a betting information use agreement as required by **section 65AG(1)(a)**

consumption charges means the charges payable under **section 65AJ**

Department means the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act 5

designated authority means the Department or, if the Department has delegated its functions or powers to another entity under **section 65AE**, then, in relation to those functions or powers, that delegate

New Zealand racing and sporting information means information relating to any New Zealand racing event or New Zealand sporting event on which betting may occur 10

New Zealand racing event means a betting race held in New Zealand

New Zealand sporting event means a sporting event—

- (a) held in New Zealand; and 15
- (b) declared by rules made under **section 54(2)(ba)** to be a New Zealand sporting event for the purposes of this Part; and
- (c) to which one of the following applies:
 - (i) the event is held under the auspices or control of a New Zealand national sporting organisation: 20
 - (ii) there is a sports betting agreement entered into under **section 55A** between the Agency and Sport and Recreation New Zealand in respect of the sport concerned

offshore betting charges or **charges** means betting information use charges or consumption charges 25

offshore betting operator means an organisation that is located outside New Zealand and that—

- (a) takes bets on New Zealand racing events or New Zealand sporting events (whether from persons located in or outside New Zealand); or
- (b) takes bets on racing and sporting events from persons located in New Zealand (whether the events are held in or outside New Zealand) 30

scheme for betting information use charges means the scheme described in **section 65AA(2)(a)**

scheme for consumption charges means the scheme referred to in **section 65AA(2)(b)**. 35

Designated authority

65AD Designated authority for each scheme

- (1) The Department is the designated authority for the scheme for betting information use charges and the scheme for consumption charges.
- (2) The function of the designated authority for each scheme is to implement the scheme, including enforcing payment of the offshore betting charges and distributing the money collected from the charges, in accordance with this Part. 5
- (3) The designated authority has the powers specified in, or prescribed under, this Part.

65AE Delegation

- (1) The Department may delegate in writing any of its functions or powers as the designated authority to another entity. 10
- (2) The Department’s power to delegate under this section may be exercised in respect of the scheme for betting information use charges or the scheme for consumption charges, or both or any part of those schemes. 15
- (3) The entities to which the Department may delegate its functions and powers include (without limitation) the Agency, 1 or more racing codes, a Crown entity as defined in section 7 of the Crown Entities Act 2004, or another department.
- (4) The Department must, when deciding whether to exercise its power of delegation under this section in favour of another entity, take into account whether the entity has the knowledge of offshore betting operators, and existing relationships with those operators, that is necessary to perform the functions and exercise the powers that the Department proposes to delegate. 20
- (5) A delegation under this section must not include— 25
 - (a) the power to delegate under this section:
 - (b) the power to review a decision to issue a penalty notice under **section 65AS(4)(b)**.

Betting information use charges

65AF Requirements on offshore betting operators before using New Zealand racing and sporting information 30

- (1) Every offshore betting operator must, before using New Zealand racing and sporting information in the conduct of the operator’s betting operations,—
 - (a) obtain permission from the designated authority; and
 - (b) enter into a betting information use agreement that complies with **section 65AG**. 35

- (2) The designated authority must not unreasonably withhold permission under **subsection (1)** for an offshore betting operator to use New Zealand racing and sporting information.
- (3) **Subsection (1)** does not apply to an offshore betting operator if, and to the extent that, it is exempted from complying with those requirements under **section 65AQ**. 5

65AG Terms and conditions of betting information use agreement

- (1) The terms and conditions of a betting information use agreement must—
- (a) require the offshore betting operator to pay betting information use charges to the designated authority for the operator's use of New Zealand racing and sporting information; and 10
 - (b) require the offshore betting operator to provide prescribed information, in the prescribed manner, to the designated authority for the purpose of enabling the authority to monitor the amounts due as betting information use charges; and 15
 - (c) provide that the betting information use charges payable under the agreement are recoverable as a debt due to the designated authority under the agreement; and
 - (d) provide that the law applicable to the agreement is New Zealand law; and 20
 - (e) provide for a dispute resolution process that the parties agree to submit to if they have a dispute relating to the agreement; and
 - (f) provide that the courts of New Zealand are the courts with jurisdiction to hear and determine any proceedings relating to the agreement if the parties are unable to resolve a dispute through the dispute resolution process; and 25
 - (g) provide that the offshore betting operator submits to the jurisdiction of the courts of New Zealand for the purposes of any proceedings referred to in **paragraph (f)**; and
 - (h) provide for any additional matters that may be prescribed. 30
- (2) In addition, the terms and conditions of a betting information use agreement may—
- (a) require the offshore betting operator to comply with any applicable integrity policy developed by the designated authority; and
 - (b) require the offshore betting operator to enter into an information sharing protocol with the designated authority. 35

65AH Minister must set rates of betting information use charges

- (1) The Minister must set the rates of the betting information use charges that offshore betting operators must pay—

<ul style="list-style-type: none"> (a) in accordance with section 65AM; and (b) in the prescribed manner. <p>(2) The Minister may set the rates by way of specified figures or methods of calculation.</p>	5
<p>65AI Power to enforce betting information use agreement</p> <p>The designated authority may issue and conduct proceedings for—</p> <ul style="list-style-type: none"> (a) determining any dispute relating to a betting information use agreement in accordance with the terms of agreement referred to in section 65AG(1)(f): (b) enforcing any provisions of a betting information use agreement that do not fall within the power of the designated authority to issue proceedings under section 65AU (which provides powers for the designated authority to recover outstanding charges and penalties). 	10
 <i>Consumption charges</i> 	
<p>65AJ Requirement to pay consumption charges</p> <p>Every offshore betting operator must pay consumption charges to the designated authority in respect of bets that it takes on racing and sporting events, held in or outside New Zealand, from persons with a registered address in New Zealand.</p>	15
<p>65AK Minister must set rates of consumption charges</p> <p>(1) The Minister must set the rates of the consumption charges that offshore betting operators must pay—</p> <ul style="list-style-type: none"> (a) in accordance with section 65AM; and (b) in the prescribed manner. <p>(2) The Minister may set the rates by way of specified figures or methods of calculation.</p>	20
<p>65AL Information to be provided relating to consumption charges</p> <p>(1) An offshore betting operator who is required to pay consumption charges must provide the prescribed information to the designated authority for the purpose of enabling the authority to monitor the amounts due as consumption charges.</p> <p>(2) The information must be provided in the prescribed manner.</p>	30

*General provisions relating to charges***65AM Further provisions relating to setting rates of charges**

- (1) Before setting rates of betting information use charges under **section 65AH** or rates of consumption charges under **section 65AK**, the Minister must take into account— 5
- (a) the proposed rates of charges jointly prepared by the Agency and the racing codes after consultation with Sport and Recreation New Zealand and relevant New Zealand national sporting organisations; and
 - (b) the Agency's revenue from racing betting and sports betting in the previous racing year; and 10
 - (c) the total amount of distributions made by the Agency to the racing codes under **section 17** and sports betting revenue paid by the Agency to New Zealand national sporting organisations under section 57 in that period; and
 - (d) the amount of taxation or duties paid by the Agency and offshore betting operators in New Zealand in that period. 15
- (2) After setting rates of betting information use charges or consumption charges, the Minister must publish a statement of reasons on an Internet site maintained by or on behalf of the designated authority that explains how the rates were set and why the rates are considered to be fair and reasonable. 20

65AN Review of rates

- (1) The Minister—
- (a) must, at least once every 5 years, review the rates of betting information use charges set under **section 65AH** and consumption charges set under **section 65AK**; and 25
 - (b) may, if necessary, adjust those rates.
- (2) Any adjustment must be made in the prescribed manner.
- (3) Before adjusting any rate, the Minister must consult the Agency, offshore betting operators, the racing codes, and appropriate New Zealand national sporting organisations. 30

65AO Certain offshore betting operators not liable for charges

- (1) An offshore betting operator is not liable to pay offshore betting charges in respect of a financial year if the operator's revenue from an activity specified in **subsection (2)** is less than the amount specified in section 51(1)(a) of the Goods and Services Tax Act 1985 to become a registered person under that Act. 35
- (2) The activities are—

- (a) taking bets on New Zealand racing and New Zealand sporting events (whether from persons who have a registered address in New Zealand or are outside New Zealand); and
- (b) taking bets on racing and sporting events from persons located in New Zealand (whether the events are held in or outside New Zealand).

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65AP Application of money received from offshore betting charges

- (1) The designated authority must apply the money received from offshore betting charges for the following purposes:
 - (a) paying the cost of administering the enforcement and collection of the betting information use charges, consumption charges, and penalties:
 - (b) promoting the long-term viability of New Zealand racing and sport:
 - (c) funding measures to prevent and minimise harm from gambling.
- (2) The designated authority must apply the money received from offshore betting charges to any 1 or more of the persons specified in, and in the amount specified in, regulations made under **section 65AX**.

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Exemptions

65AQ Minister may grant exemptions

- (1) The Minister may, by notice in writing, exempt an offshore betting operator or a class of offshore betting operators from the need to comply with any 1 or more of the following:
 - (a) the requirement under **section 65AF(1)(a)** to obtain permission from the designated authority before using New Zealand racing and sporting information:
 - (b) the requirement under **section 65AF(1)(b)** to enter into a betting information use agreement before using New Zealand racing and sporting information:
 - (c) the requirement under a betting information use agreement to pay betting information use charges:
 - (d) the requirement under **section 65AJ** to pay consumption charges.
- (2) In deciding whether to grant an exemption, the Minister must—
 - (a) have regard to the purpose of this Act set out in section 3 and the purpose of this Part set out in **section 65AA**; and
 - (b) for an exemption under **subsection (1)(b)**, be satisfied that—
 - (i) the designated authority (or, as applicable, the Agency, a racing code, appropriate New Zealand national sporting organisation, or Sport and Recreation New Zealand) and the offshore betting operator are parties to an agreement negotiated outside the framework provided for in this Part; and

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- (ii) under the terms of that agreement, the designated authority (or any other applicable body referred to in **subparagraph (i)**) receives from the offshore betting operator not less than the amount of income that the designated authority would receive from that offshore betting operator under this Part were the exemption not granted; and 5
- (c) be satisfied that the exemption will not unduly negatively affect, or be detrimental to, the long-term viability of New Zealand racing and sport.
- (3) Before granting an exemption under this section, the Minister must— 10
- (a) consult the Agency and take its advice into account; and
- (b) consult any of following affected by the exemption:
- (i) the relevant racing code or codes;
- (ii) Sport and Recreation New Zealand;
- (iii) the appropriate New Zealand national sporting organisation or organisations. 15
- (4) The Minister may—
- (a) grant the exemption on any terms and conditions the Minister thinks fit;
- (b) amend or revoke the exemption;
- (c) replace an exemption either before or when it expires.
- (5) An exemption granted under this section— 20
- (a) takes effect on and from the date on which it is notified in the *Gazette*; and
- (b) expires on the date specified in the notice.
- 65AR Status and publication of exemption notices**
- (1) For the purposes of the Legislation Act 2012, an exemption granted under **section 65AQ**— 25
- (a) is not a legislative instrument; but
- (b) is a disallowable instrument and must be presented to the House of Representatives under section 41 of that Act.
- (2) As soon as practicable after it is granted, an exemption must be— 30
- (a) published on an Internet site maintained by or on behalf of the Department; and
- (b) notified in the *Gazette*.
- (3) The Minister's reasons for granting the exemption (including why the exemption is appropriate) must be published in accordance with **subsection (2)(a)** along with the exemption. 35

- (4) However, the Minister may, if satisfied that an exemption contains or refers to information that may reasonably be regarded as confidential or commercially sensitive, authorise the designated authority to redact that information from text of the exemption published in accordance with **subsection (2)(a)**.

Penalties

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65AS Penalties

- (1) The designated authority may issue a penalty notice to an offshore betting operator if it is satisfied that the operator has—

- (a) failed to pay an amount of a betting information use charge or a consumption charge on or before the date on which the charge was due and payable under the regulations; or
- (b) provided false or misleading information to the designated authority for the purpose of calculating the amount of a charge that the operator is required to pay.

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- (2) The penalty notice may require the offshore betting operator to—

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- (a) pay to the designated authority as a penalty, and in addition to the amount of outstanding charges, the amount referred to in **subsection (3)**; and
- (b) pay the penalty amount by the date specified in the notice.

- (3) The penalty amount stated in the notice must be the amount specified in, or the amount calculated in accordance with, regulations made under **section 65AX**.

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- (4) An offshore betting operator who is issued with a penalty notice under this section—

- (a) must pay the penalty;
- (b) may request the designated authority to review the decision to issue the notice.

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- (5) A penalty notice under this section must be in the prescribed form (if any) and issued in the prescribed manner.

65AT Maximum amount of penalties

The amount payable as a penalty under regulations made under **section 65AX**, whether the regulations specify a fixed amount or a method of calculating the amount, must not exceed—

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- (a) NZ\$20,000, for an offshore betting operator who is an individual;
- (b) NZ\$50,000, for an offshore betting operator that is a body corporate.

65AU Recovery of outstanding charges and penalties

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- (1) Outstanding offshore betting charges and penalties payable by an offshore betting operator constitute a debt due to the designated authority, and the designa-

ted authority may issue legal proceedings for recovery of the debt from the offshore betting operator.

- (2) The applicable law in respect of recovery of the debt is New Zealand law.
- (3) The courts of New Zealand are the courts with jurisdiction to hear and determine proceedings for recovery of the debt.

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65AV Obligation to pay penalty not suspended by review or legal proceedings

- (1) An offshore betting operator's obligation to pay, and the designated authority's right to receive and recover, a penalty imposed is not suspended by—
 - (a) a request for review under **section 65AS(4)(b)**; or
 - (b) any legal proceedings relating to the penalty.
- (2) **Subsection (3)** applies if an offshore betting operator pays a penalty amount, and, on review or in legal proceedings, it is found that the betting operator was not liable for the penalty or any part of the penalty.
- (3) The designated authority must, as soon as practicable, refund to the offshore betting operator the amount of the penalty or part of the penalty for which the offshore betting operator was not liable.

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65AW Appeal to District Court

- (1) An offshore betting operator may appeal to the District Court against a decision of the designated authority to issue a penalty notice under **section 65AS**.
- (2) If an appeal is made under **subsection (1)**, the District Court must determine whether the decision to issue the notice is appropriate.

20

Regulations

65AX Regulations for offshore betting

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations for all or any of the following purposes:
 - (a) prescribing the financial or other relevant information that an offshore betting operator must provide to the designated authority, the manner in which that information is to be provided (including how the information must be presented, calculated, or prepared), and when the information must be provided for the purposes of **section 65AG(1)(b)**;
 - (b) providing for matters relating to integrity policy requirements that offshore betting operators must comply with under **section 65AG(2)(a)**;
 - (c) providing for matters relating to an information sharing protocol that may be entered into between the designated authority and offshore betting operators under **section 65AG(2)(b)**;
 - (d) prescribing the financial or other relevant information that an offshore betting operator must provide to the designated authority, the manner in

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	which that information is to be provided (including how the information must be presented, calculated, or prepared), and when the information must be provided for the purposes of section 65AL :	
(e)	prescribing the manner in which rates and adjustments to rates must be set for the purposes of section 65AH or 65AK :	5
(f)	specifying the persons to whom money received from offshore betting charges may be distributed under section 65AP and prescribing the method to be used for determining the amount of distribution of the charge or charges:	
(g)	specifying penalty amounts or the method by which penalty amounts must be calculated for the purposes of section 65AS(3) :	10
(h)	prescribing the form of penalty notices for the purposes of section 65AS(5) and the manner in which penalty notices must be issued:	
(i)	prescribing the manner in which any other thing must be done for the purposes of this Part:	15
(j)	prescribing fees or other charges payable in respect of any matter under this Part or the manner in which fees and charges may be calculated:	
(k)	providing for any other matters contemplated by this Part, necessary for its administration, or necessary for giving it full effect.	
(2)	Regulations made under this section may provide differently for different classes of offshore betting operator.	20
(3)	Regulations made under this section are not invalid merely because they confer any discretion on, or allow any matter to be determined or approved by, any person.	
(4)	Before making a recommendation under this section, the Minister must consult the Agency, each racing code, and the Minister for Sport and Recreation.	25

Other amendments

22 New section 68A inserted (Regulations)

After section 68, insert:

68A	Regulations	30
(1)	The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations for all or any of the following purposes:	
(a)	prescribing matters to support the performance and exercise of the Agency's relevant functions and powers during the transition period (for example, setting out the framework for managing the transfer of the Agency's functions to the racing codes and specifying the qualifications of directors of any entity carrying out functions under this Act):	35

- (b) prescribing the minimum amounts, or the method to be used for calculating minimum amounts, for the purposes of **section 57(1)(da)**;
- (ba) extending the end date of the transition period (as defined in section 5(1)) to a date no later than **30 June 2022**;
- (c) providing for any other matters contemplated by this Act, necessary for its administration, or necessary for giving it full effect. 5
- (2) Before making a recommendation for regulations under **subsection (1)(b)**, the Minister must consult the Minister for Sport and Recreation.
- (3) No regulations may be made under **subsection (1)(ba)** after **30 June 2020**.
- 23 Part 8 repealed** 10
Repeal Part 8.
- 24 New Schedule 1AA inserted**
Insert the **Schedule 1AA** set out in **Schedule 1** of this Act as the first schedule to appear after the last section of the principal Act.
- Consequential amendments* 15
- 25 Consequential amendments**
- (1) Amend the principal Act as set in **Schedule 2**.
- (2) Amend the enactments specified in **Schedule 3** as set out in that schedule.
- Part 2**
- Taxation (totalisator duty) repeal** 20
- Subpart 1—Amendments to Gaming Duties Act 1971
- 26 Amendments to Gaming Duties Act 1971**
This subpart amends the Gaming Duties Act 1971.
- 27 Section 3 amended (Interpretation)**
- (1) In section 3, replace the definition of **Board** with: 25
Agency has the same meaning as in section 5(1) of the Racing Act 2003
- (2) In section 3, repeal the definitions of **Agency**, **fixed-odds racing betting**, **sports betting**, **totalisator racing betting**, and **winning dividend**.
- 28 Section 4 amended (Totalisator duty)**
- (1) In section 4(1), replace “4%” with “2.67%”. 30
- (2) In section 4(1), replace “2.67%” with “1.33%”.
- (3) In section 4(1), replace “1.33%” with “0%”.

-
- (4) In section 4(2), formula, item relating to **amounts**, ~~paragraph (a)~~, replace “Board” with “Agency”.
- 29 Section 13 amended (Refund of duty or interest paid in error or in excess)**
 In section 13(1), replace “he” with “the Commissioner”.
- 30 Part 1 repealed** 5
 Repeal Part 1.
 Subpart 2—Amendment to Tax Administration Act 1994
- 31 Amendment to Tax Administration Act 1994**
This subpart amends the Taxation Administration Act 1994.
- 32 Section 3 amended (Interpretation)** 10
 In section 3(1), definition of **late payment penalty**, repeal paragraph (b)(v).

Schedule 1
New Schedule 1AA inserted

s 24

Schedule 1AA
Transitional, savings, and related provisions

5

s 6A

Part 1
Provisions relating to Racing Reform Act 2019

1 Interpretation

In this Part, **commencement date** means the date on which **Part 1** of the Racing Reform Act **2019** comes into force. 10

2 Board members cease to hold office

- (1) Every Board member holding office immediately before the commencement date ceases to hold office on that commencement.
- (2) A Board member to whom **subclause (1)** applies is not entitled to any compensation or other payment or benefit for the loss of office. 15
- (3) Despite **subclause (1)**, a Board member remains in office until their successor has been appointed to the Agency.

3 Ministerial powers during transition period

- (1) During the transition period, the Minister may— 20
- (a) provide a letter of expectations to the Agency that sets out the Minister's expectations regarding the Agency's strategic direction and specific priorities in relation to the reform of New Zealand racing; and
- (b) give written directions to the Agency— 25
- (i) to use, or improve, its resources (whether physical, financial, or human) in a manner that will benefit New Zealand racing;
- (ii) to secure economies or efficiencies;
- (iii) to develop expertise and capability;
- (iv) to ensure business change or continuity;
- (v) to manage risks to its financial position; and 30
- (c) require the Agency to report to the Minister, at the intervals and in the manner required by the Minister, in relation to the performance of its functions under this Act.

- (2) To avoid doubt, nothing in this clause limits the Minister's powers under this Act or any other Act.
- 4 Amounts of distributions to racing codes**
 Section 16 of this Act (as it read immediately before the commencement date) continues to apply until the date on which regulations made under **section 16** (as replaced by **section 13** of the Racing Reform Act **2019**) come into force. 5
- 5 Application of revenue from sports betting**
 Section 57(1)(d) of this Act (as it read immediately before the commencement date) continues to apply until the date on which regulations made under **section 68A** (as inserted by **section 22** of the Racing Reform Act **2019**) come into force. 10
- 6 Existing betting information use agreements**
- (1) In this clause, **existing betting information use agreement** means an agreement between the Board and any offshore betting operator that— 15
- (a) is in force immediately before the commencement date; and
- (b) confers rights on that betting operator or a sub-licensee of that operator to use New Zealand racing and sporting information in the conduct of its betting operations in respect of racing and sporting events held in New Zealand.
- (2) **Part 6AA** (as inserted by **section 21** of the Racing Reform Act **2019**) does not affect any existing betting information use agreement and the agreement continues in force, on and after the commencement date, according to its tenor as if it were entered into by the Agency and the offshore betting operator. 20
- 7 Other agreements authorising use of New Zealand racing and sporting information** 25
- (1) This clause applies to an existing agreement between the Board and an entity other than an offshore betting operator—
- (a) that is in force immediately before the commencement date; and
- (b) that confers rights on that entity (or a sub-licensee of that entity) to use New Zealand racing and sporting information. 30
- (2) **Part 6AA** (as inserted by **section 21** of the Racing Reform Act **2019**) does not affect the existing agreement and the agreement continues in force, on and after the commencement date, according to its tenor as if it were entered into by the Agency and the entity.
- 8 Betting information use agreements entered into by Agency before regulations under section 65AX come into force** 35
- (1) This clause applies to a betting information use agreement—

-
- (a) that was being negotiated by the Board and an offshore betting operator before the commencement date; and
- (b) that is entered into by the Agency and the offshore betting operator after the commencement date but before regulations made under **section 65AX** come into force; and 5
- (c) that confers rights on that offshore betting operator or a sub-licensee of that operator to use New Zealand racing and sporting information in the conduct of its betting operations in respect of racing and sporting events held in New Zealand.
- (2) **Part 6AA** (as inserted by **section 21** of the Racing Reform Act **2019**) does 10
not affect the betting information use agreement and the agreement continues in force according to its tenor.

Schedule 2

Consequential amendments to principal Act

s 25(1)

In the provisions of the principal Act specified in the third column of the following table, replace the reference specified in the first column with the reference opposite it in the second column of the table. 5

Current reference	Replacement reference	Provision
New Zealand Racing Board	Racing Industry Transition Agency	Schedule 1 heading
Board	Agency	5(1), definition of betting licence 5(1), definition of dates committee 5(1), definition of governing body 5(1), definition of racing betting 5(1), definition of sports betting 10(1), (2) in each place, (3) 13(1), (2) in each place 14(1) 15 heading 15(1) in each place, (2) 18 heading 18 19 heading 19(1), (2)(a), (3) 20 heading 20(1), (2) 21(1), (2)(a) 22(1), (2), (3), (6) 23(1), (2)(d), (3), (4) in each place, (5)(b) 25 heading 25(1), (3) in each place 28 heading 28(1), (2) in each place 29(3) 30(1), (3) 37(2)(a) 38(1)(a), (2), (3) 42 heading 42(1) 45(1), (2)(d) 46(1), (2) 47(1) 48(1), (2)(a), (3)

Current reference	Replacement reference	Provision
		49(1)(a)
		52 heading
		52(1) and (2) in each place, (3)
		55(1), (2)
		56(1)
		58(3), (4) in each place, (5) in each place
		59(1), (4)
		60(1) in each place, (2), (3)
		61(1), (3)
		62
		63(2) in each place, (6) definition of bet
		63A(1) in each place
		65
		65A
		65C(2)
		65E(1)(a), (4)
		65F(b), (d)
		65I heading
		65I
		65J heading
		65J in each place
		66 heading
		66(1), (2)
		67
		68(1), (2)(c)
		Schedule 1 cl 4
		Schedule 1 cl 5
		Schedule 1 cl 6(1)(a), 6(1)(b) in each place, 6(2)(a)
		Schedule 1 cl 8(2)(b)
		Schedule 1 cl 10(1), (2)
		Schedule 1 cl 12
		Schedule 1 cl 13(2)(b)
		Schedule 1 cl 22(1), (2) in each place, (3), (4)
		Schedule 1 cl 23(1), (2)
		Schedule 1 cl 24(1)
		Schedule 1 cl 28 heading
		Schedule 2 heading
		Schedule 2 cl 1(1)
		Schedule 2 cl 2(1), (2), (3) in each place, (4)
		Schedule 2 cl 3(1), (2)
		Schedule 2 cl 4 in each place

Current reference	Replacement reference	Provision
		Schedule 2 cl 5(b) Schedule 2 cl 6 heading Schedule 2 cl 6(1), (2)(a) in each place, 2(b) Schedule 3 cl 5 Schedule 3 cl 6(1) Schedule 3 cl 9(1), (2)(a) Schedule 3 cl 11(b) Schedule 3 cl 12 Schedule 3 cl 14
Board's	Agency's	52(2)(b)(ii) 54(2)(b)(ii) 60(3) Schedule 1 cl 8(2)(a) Schedule 1 cl 22(3), (4) Schedule 1 cl 28(1)(a), (b) Schedule 1 cl 30(1), (2) Schedule 2 cl 1(2) in each place Schedule 2 cl 4
Board venue	Agency venue	65A 65B(1) 65C(1)(a), (2)(b), (3) 65D heading 65E heading 65F(a), (e) 65G(2), (3) 65H(1)(b), (e)
Board venues	Agency venues	65D(1), (3), (4) in each place 65E(1), (4) 65F(c), (d) 65G heading 65G(1) 65H heading 65H(1)(d)
Board member	Agency member	Schedule 1 cl 1 in each place Schedule 1 cl 2(1) Schedule 1 cl 3(1) Schedule 1 cl 6(1), (2) Schedule 1 cl 7(b), (c) Schedule 1 cl 8(1) in each place Schedule 1 cl 9 in each place

Current reference	Replacement reference	Provision
		Schedule 1 cl 10(1), (2) Schedule 1 cl 11 Schedule 1 cl 12 Schedule 1 cl 13 in each place Schedule 1 cl 14 in each place Schedule 1 cl 16(1), (2)
Boardmember	Agency member	Sch 1 cl 13(1)
Board members	Agency members	Schedule 1 cross-heading above cl 1 Schedule 1 cl 1 heading Schedule 1 cl 5 Schedule 1 cl 16(2) in each place Schedule 1 cl 17(a), (b) Schedule 1 cl 18(1) Schedule 1 cl 19(3) Schedule 1 cl 21(1), (2) Schedule 1 cl 22(2)(a) Schedule 1 cl 28(3)
Board member's	Agency member's	Schedule 1 cl 10(1)(a), (1)(b) Schedule 1 cl 16(3)(c)
a Board operator or racing club	an Agency operator or a racing club	65H(1)(a), (c)

Schedule 3
Consequential amendments to other enactments

s 25(2)

Part 1

Amendments to other Acts 5

Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (2009 No 35)

In section 5(1), definition of **reporting entity**, paragraph (a)(v), replace “New Zealand Racing Board” with “Racing Industry Transition Agency”.

In section 6(3)(d) and (4)(b), replace “New Zealand Racing Board” with “Racing Industry Transition Agency”. 10

In section 130(1)(d), replace “New Zealand Racing Board” with “Racing Industry Transition Agency”.

Financial Transactions Reporting Act 1996 (1996 No 9)

In section 3(1)(j), replace “New Zealand Racing Board established” with “Racing Industry Transition Agency continued”. 15

Flags, Emblems, and Names Protection Act 1981 (1981 No 47)

In Schedule 3, item relating to Racing Act 2003, replace “New Zealand Racing Board” with “Racing Industry Transition Agency”.

Gambling Act 2003 (2003 No 51) 20

In section 4(1), definition of **bookmaking**, paragraph (b)(i), replace “New Zealand Racing Board” with “Racing Industry Transition Agency”.

In section 12(3)(b), replace “New Zealand Racing Board” with “Racing Industry Transition Agency”.

In the heading to section 33, replace “**New Zealand Racing Board**” with “**Racing Industry Transition Agency**”. 25

In section 33, replace “New Zealand Racing Board” with “Racing Industry Transition Agency” in each place.

In section 34(b), replace “New Zealand Racing Board” with “Racing Industry Transition Agency”. 30

In section 65(4), replace “New Zealand Racing Board” with “Racing Industry Transition Agency”.

In section 67(1)(n), replace “New Zealand Racing Board” with “Racing Industry Transition Agency” in each place.

In section 69A(f), replace “New Zealand Racing Board” with “Racing Industry Transition Agency”. 35

Gambling Act 2003 (2003 No 51)—continued

In section 120, replace “New Zealand Racing Board” with “Racing Industry Transition Agency” in each place.

In section 318(1)(h)(iv), replace “New Zealand Racing Board” with “Racing Industry Transition Agency”.

In section 320(3)(a)(i), replace “New Zealand Racing Board, has the same meaning as betting profits in section 4(2) and (3) of the Gaming Duties Act 1971” with “Racing Industry Transition Agency, has the same meaning as betting profits in **section 17A(2)** of the Racing Act 2003”. 5

In section 320(3)(a)(ii), replace “New Zealand Racing Board” with “Racing Industry Transition Agency”. 10

In section 320(3)(b)(i) and (d)(i), replace “Department” with “Department, the Racing Industry Transition Agency (or its successor organisation),”.

Goods and Services Tax Act 1985 (1985 No 141)

In section 5(8), replace “Board” with “Agency” in each place.

In section 10(12)(a), replace “New Zealand Racing Board” with “Racing Industry Transition Agency”. 15

In section 10(13), replace “New Zealand Racing Board” with “**Racing Industry Transition Agency**”.

Income Tax Act 2007 (2007 No 97)

In section CW 47(1)(a), replace “New Zealand Racing Board” with “Racing Industry Transition Agency”. 20

Official Information Act 1982 (1982 No 156)

In Schedule 1, repeal the item relating to the New Zealand Racing Board.

In Schedule 1, insert in its appropriate alphabetical order:

Racing Industry Transition Agency 25

Part 2**Amendments to legislative instruments****Anti-Money Laundering and Countering Financing of Terrorism (Definitions) Amendment Regulations (No 2) 2018 (LI 2018/199)**

In regulation 4(1), new regulation 15(1)(a)(iii), replace “New Zealand Racing Board” with “Racing Industry Transition Agency”. 30

In regulation 4(3), new definition of **voucher** in regulation 15(4), replace “New Zealand Racing Board” with “Racing Industry Transition Agency”.

Anti-Money Laundering and Countering Financing of Terrorism (Exemptions) Amendment Regulations 2018 (LI 2018/200)

In the heading to regulation 4, replace “New Zealand Racing Board” with “Racing Industry Transition Agency”.

In regulation 4, heading to new regulation 6AB, replace “New Zealand Racing Board” with “Racing Industry Transition Agency”. 5

In regulation 4, new regulation 6AB, replace “New Zealand Racing Board (the NZRB)” with “Racing Industry Transition Agency (the Agency)”.

In the heading to regulation 5, replace “New Zealand Racing Board” with “Racing Industry Transition Agency”. 10

In regulation 5, heading to new regulation 7A, replace “New Zealand Racing Board” with “Racing Industry Transition Agency”.

In regulation 5, new regulation 7A(1), replace “New Zealand Racing Board (the NZRB)” with “Racing Industry Transition Agency (the Agency)”.

In regulation 6(1), new regulation 15(1)(a)(iii), replace “New Zealand Racing Board (the NZRB)” with “Racing Industry Transition Agency (the Agency)”. 15

In regulation 6(3), new definition of **voucher** in regulation 15(3), replace “NZRB” with “Agency”.

Electronic Identity Verification Regulations 2013 (SR 2013/9)

In Schedule 1, repeal the item relating to the New Zealand Racing Board. 20

In Schedule 1, insert in its appropriate alphabetical order:

Racing Industry Transition Agency

Gambling (Fees) Regulations 2015 (LI 2015/313)

In regulation 3(1), definition of **category A application**, paragraph (b), replace “New Zealand Racing Board” with “Racing Industry Transition Agency”. 25

~~Gambling (Problem Gambling Levy) Regulations 2016 (LI 2016/120)~~ Gambling (Problem Gambling Levy) Regulations 2019 (LI 2019/134)

In regulation 6, replace “New Zealand Racing Board” with “Racing Industry Transition Agency”.

In the heading to regulation 11, replace “New Zealand Racing Board” with “Racing Industry Transition Agency”. 30

In regulation 11, replace “New Zealand Racing Board” with “Racing Industry Transition Agency” in each place.

In Schedule 2, replace “New Zealand Racing Board” with “Racing Industry Transition Agency”. 35

Racing (Harm Prevention and Minimisation) Regulations 2004 (SR 2004/291)

In regulation 4, replace “Board” with “Agency”.

Racing (Harm Prevention and Minimisation) Regulations 2004 (SR 2004/291)—*continued*

In regulation 4, replace “a Board venue” with “an Agency venue”.

In regulation 5, replace “Board must, at each Board venue,” with “Agency must, at each Agency venue,”.

In regulation 6(1) and (2)(e), replace “Board” with “Agency”.

In regulation 6(1), replace “a Board venue” with “an Agency venue”.

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Legislative history

21 May 2019	Introduction (Bill 138–1)
28 May 2019	First reading and referral to Transport and Infrastructure Committee
11 June 2019	Reported from Transport and Infrastructure Committee (Bill 138–2)
18 June 2019	Second reading
19 June 2019	Committee of the whole House (Bill 138–3)