

1993
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Sport)

**Betting (Totalizator Administration)
(Amendment) Bill 1993**

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**Betting (Totalizator Administration)
(Amendment) Bill 1993**

**A BILL
FOR**

An Act to amend the *Betting (Totalizator Administration) Act 1964*, the *Territory Owned Corporations Act 1990* and for related purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

PART I—PRELIMINARY

Short title

- 5 1. This Act may be cited as the *Betting (Totalizator Administration) (Amendment) Act 1993*.

Commencement

2. (1) Section 1 and this section commence on the day on which this Act is notified in the *Gazette*.
- 10 (2) The remaining provisions commence on a day, or respective days, fixed by the Minister by notice in the *Gazette*.

(3) If a provision referred to in subsection (2) has not commenced before the end of the period of 6 months commencing on the day on which this Act is notified in the *Gazette*, that provision, by force of this subsection, commences on the first day after the end of that period.

5 **Principal Act**

3. In this Act, "Principal Act" means the *Betting (Totalizator Administration) Act 1964*.¹

PART II—AMENDMENTS OF PRINCIPAL ACT

Long title

10 4. The long title to the Principal Act is amended by omitting all the words after "events" and substituting "and for related purposes".

Interpretation

5. Section 4 of the Principal Act is amended—

(a) by omitting the definition of "TAB"; and

15 (b) by inserting the following definitions:

 " 'Board' means the Australian Capital Territory Totalizator Administration Board;

 ' member' means a member of the Board;".

Substitution

20 6. Part II of the Principal Act is repealed and the following Part substituted:

**"PART II—AUSTRALIAN CAPITAL TERRITORY
TOTALIZATOR ADMINISTRATION BOARD (ACTTAB)**

"Division 1—Establishment, functions and powers

25 **Establishment**

 "5. (1) The Australian Capital Territory Totalizator Administration Board is established.

 "(2) The Board may be referred to as ACTTAB.

 "(3) The Board—

30 (a) is a body corporate with perpetual succession;

 (b) is to have a common seal;

 (c) may acquire, hold and dispose of real and personal property; and

(d) may sue and be sued in its corporate name.

“(4) The common seal of the Board shall be kept in such custody as the Board directs and shall not be used except as authorised by the Board.

5 “(5) 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.

Objectives of the Board

“5A. The objectives of the Board are—

- 10 (a) to ensure the efficient and cost effective operation of the Board;
and
(b) to maximise sustainable returns to the Territory from totalizator betting services.

Exclusive right to provide betting facilities

15 “5B. The Board has, in the Territory, the exclusive right to conduct or provide totalizator betting services for races and other sporting events held whether within or outside the Territory.

Functions

“5C. (1) The functions of the Board are—

- 20 (a) to conduct or provide totalizator betting services—
(i) in respect of races and other sporting events held within or outside the Territory—by operating its own totalizator; and
(ii) by agreement with a body in a State or another Territory that is authorised by a law of that State or other Territory to conduct or provide off-course totalizator betting in that
25 State or Territory;
(b) to conduct lotteries;
(c) to act as an agent of the person conducting a lottery for the sale of tickets, or shares in tickets, in a lottery; and
30 (d) with the written approval of the Minister, to provide other services relating to betting.

“(2) In addition to the functions of the Board under subsection (1), the Board has such other functions and duties as are conferred on it under this or any other Act.

Powers

35 “5D. The Board has power to do all things necessary or convenient to be done in connection with the performance of its functions.

Ministerial directions

“5E. (1) The Minister may, by instrument, give directions to the Board in relation to the exercise of its powers or the performance of its functions.

5 “(2) The Board shall comply with a direction given to it under subsection (1).

“(3) The Minister shall cause particulars of any direction to be tabled in the Legislative Assembly within 7 sitting days of its being given.

10 “(4) The Board shall publish particulars of any directions given in a financial year in its annual report for that year.

“Division 2—Constitution and meetings

Interpretation

“5F. In this Division, unless the contrary intention appears—

‘member’ means a person appointed under paragraph 5G (1) (b).

15 **Membership**

“5G. (1) The Board shall consist of—

(a) the Chief Executive Officer; and

(b) no fewer than 2 nor more than 4 other members appointed by the Minister, by instrument.

20 “(2) A member shall be a person having appropriate qualifications and experience having regard to the functions of the Board.

“(3) The appointment of a member is not invalid because of any defect or irregularity in connection with the member’s appointment.

25 “(4) A member holds office on such terms and conditions in respect of matters not provided for by this Act as are determined, in writing, by the Minister.

“(5) 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.

30 **Term of office**

“5H. (1) A member holds office for the period, not exceeding 5 years, specified in the instrument of appointment.

“(2) A member is eligible for re-appointment.

Chairperson and Deputy Chairperson

35 “5J. The Minister shall appoint from the members—

- (a) a Chairperson; and
- (b) a Deputy Chairperson.

Remuneration and allowances

5 "5K. (1) A member shall be paid such remuneration and allowances as are prescribed.

"(2) Subsection (1) does not apply—

- (a) in relation to remuneration—if there is a subsisting determination relating to the remuneration to be paid to the member; or
- 10 (b) in relation to an allowance of a particular kind—if there is a subsisting determination relating to an allowance of that kind to be paid to the member.

"(3) In subsection (1)—

'determination' means a determination of the Remuneration Tribunal of the Commonwealth.

15 Leave of absence

"5L. The Minister may grant a member leave of absence on such terms and conditions as to remuneration and otherwise as the Minister determines.

Disclosure of interests

20 "5M. (1) A member who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Board shall, as soon as practicable after the relevant facts have come to the member's knowledge, disclose the nature of the interest to the Board.

"(2) A disclosure shall be recorded in the minutes of the meeting and, unless the Minister otherwise determines, the member shall not—

- 25 (a) be present during any deliberation of the Board with respect to the matter; or
- (b) take part in any decision of the Board with respect to that matter.

"(3) In this section—

'member' includes the Chief Executive Officer.

30 Resignation

"5N. A member may resign his or her office by writing signed by the member and delivered to the Minister.

Acting members

35 "5P. (1) The Minister may, by instrument, appoint a person to act as a member.

“(2) A person shall not be appointed under subsection (1) unless the person is eligible for appointment as a member.

“(3) Anything done by or in relation to a person purporting to act under this section is not invalid on the ground that—

- 5
- (a) the occasion for the person’s appointment had not arisen;
 - (b) there is a defect or irregularity in connection with the person’s appointment;
 - (c) the person’s appointment had ceased to have effect; or
 - (d) the occasion for the person to act had not arisen or had ceased.

10 **Termination of appointment**

“5Q. (1) The Minister may terminate the appointment of a member or acting member because of the misbehaviour or physical or mental incapacity of the member or acting member.

“(2) If a member or acting member—

- 15
- (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of remuneration for their benefit;
 - (b) is absent, except on leave granted under section 5L, for 3 consecutive meetings; or
- 20
- (c) contravenes section 5M;

the Minister shall terminate the appointment of that member or acting member.

Meetings

25 “5R. The Chairperson, or if he or she is unable to do so, the Deputy Chairperson, shall convene such Board meetings—

- (a) as the Chairperson or the Deputy Chairperson considers necessary for the efficient performance of its functions; and
- (b) as the Minister directs by notice in writing given to the Chairperson or the Deputy Chairperson.

30 **Procedure at meetings**

“5S. (1) The Chairperson shall preside at all the Board meetings at which he or she is present.

“(2) Where the Chairperson is not present at a meeting the Deputy Chairperson shall preside.

“(3) Where the Chairperson and the Deputy Chairperson are both absent from a meeting, the members present shall elect 1 of their number to preside.

5 “(4) The member presiding at a meeting may give directions regarding the procedure to be followed in connection with the meeting.

“(5) Questions arising at a meeting shall be decided by a majority of the votes of the persons present and voting.

“(6) The member presiding at a meeting has a deliberative vote and, in the event of an equality of votes, a casting vote.

10 “(7) The Board shall keep minutes of its proceedings.

Quorum

“5T. (1) At a meeting of the Board, a majority of the members of the Board constitutes a quorum.

“(2) In subsection (1)—

15 ‘member’ includes the Chief Executive Officer.

“Division 3—Chief Executive Officer, staff and consultants

Chief Executive Officer

“5U. (1) The Minister shall, by instrument, appoint a person to be Chief Executive Officer of the Board after consultation with the Board.

20 “(2) The Chief Executive Officer holds office for the period (not exceeding 5 years) specified in the instrument of appointment.

“(3) The Chief Executive Officer holds office on such terms and conditions (including remuneration and allowances) in respect of matters not provided for by this Act as the Minister, in writing, determines.

25 “(4) The Chief Executive Officer shall, subject to and in accordance with the general directions of the Board, manage the affairs of the Board.

Chief Executive Officer—leave of absence

“5V. The Board may grant leave of absence to the Chief Executive Officer.

30 **Chief Executive Officer—resignation**

“5W. The Chief Executive Officer may resign office by writing signed by him or her and delivered to the Minister.

Chief Executive Officer—termination of appointment

“5X. (1) The Minister may terminate the appointment of the Chief Executive Officer for misbehaviour or physical or mental incapacity.

“(2) If the Chief Executive Officer—

- 5 (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;
- 10 (b) engages in paid employment outside the duties of his or her office without the approval of the Board;
- (c) fails, without reasonable excuse, to comply with his or her obligations under section 5M; or
- (d) is convicted in Australia or elsewhere of an offence punishable by imprisonment for 1 year or longer;

15 the Minister shall terminate his or her appointment.

Acting Chief Executive Officer

“5Y. (1) The Minister may, by instrument, appoint a person to act as Chief Executive Officer—

- 20 (a) during a vacancy in the office of the Chief Executive Officer, whether or not an appointment has previously been made to the office; or
- (b) during any period, or during all periods, when the Chief Executive Officer is absent from duty or from the Territory or is, for any other reason, unable to perform the functions of Chief Executive Officer;
- 25

but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.

“(2) The Minister shall not make an appointment under subsection (1) unless the Minister has consulted with the Board.

30 “(3) While a person is acting as Chief Executive Officer the person has and may exercise all the powers and shall perform all the functions of the Chief Executive Officer.

“(4) Anything done by or in relation to a person purporting to act under subsection (1) is not invalid because—

- 35 (a) the occasion for the appointment had not arisen;

- (b) there is a defect or irregularity in or in connection with the appointment;
- (c) the appointment had ceased to have effect; or
- (d) the occasion for the person to act had not arisen or had ceased.

5 **Staff**

“5Z. (1) The Board may appoint such officers or engage such employees as the Board considers necessary for the purposes of this Act.

10 “(2) The terms and conditions of employment of persons appointed or engaged under subsection (1) are such as are determined in writing by the Board.

Consultants

“5ZA. The Board may engage persons having suitable qualifications and experience as consultants to the Board.

“Division 4—General

15 **Delegation**

“5ZB. The Board may, either generally or as otherwise provided by the instrument of delegation, by writing under its common seal, delegate to—

- (a) the Chief Executive Officer;
- (b) a member of the Board; or
- 20 (c) an employee of the Board;

any of its powers under this Act or any other law of the Territory, other than this power of delegation.

Application of Audit Act

25 “5ZC. (1) For the purposes of subsection 87 (2) of the *Audit Act 1989*, the Board is declared to be a public authority to which Divisions 1 and 2 of Part IX of that Act apply.

“(2) A report under section 93 of the *Audit Act 1989* shall include—

- (a) particulars of any direction under section 5E given by the Minister during the period to which the report relates; and
- 30 (b) a statement by the Board indicating how effect has been given to the direction.”.

Payments to the Racecourse Development Fund

7. Section 8 of the Principal Act is amended by omitting subsection (2).

Insertion

8. After section 11 of the Principal Act the following sections are inserted in Part IIAA:

Restrictions on contracts

5 “12. The Board shall not, except with the written approval of the Minister, enter into a contract involving the payment by the Board of an amount exceeding \$250,000.

Application of surplus funds

10 “13. (1) Where, in respect of any financial year, there remains a surplus of the Board, that surplus or such part of it as the Minister, after consultation with the Board, by instrument determines, shall be paid to the Consolidated Revenue Fund.

15 “(2) For the purposes of subsection (1) the surplus of the Board in respect of a financial year is the amount (if any) of revenue remaining after deducting from the revenue received or receivable by the Board in respect of the financial year the expenditure and provision for expenditure properly chargeable against that revenue.”.

Addition

9. After section 46 of the Principal Act the following Part is added:

20 **“PART IV—MISCELLANEOUS**

Quarterly reports

“47. (1) The Board shall, as soon as practicable after the end of each quarter, prepare and give to the Minister a report on the operation of this Act during that quarter.

25 “(2) In subsection (1)—

‘quarter’ means so much of a quarter commencing on 1 July, 1 September, 1 January or 1 April as occurs after the commencement of this section.

Annual report

30 “48. The Board shall furnish to the Minister for presentation to the Legislative Assembly a report relating to the operation of the Board during each financial year.

Regulations

35 “49. The Executive may make regulations, not inconsistent with this Act, prescribing matters—

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.”.

Further amendments

5 **10.** The following provisions of the Principal Act are amended by omitting “TAB” (wherever occurring) and substituting “Board”:

10 Sections 4 (definition of “rules of betting”) and 6, subsections 7 (1) and (2) and 8 (1), subsections 9 (1) and (2), paragraphs 35Q (a) and 35S (1) (f), sections 35SA, 36 and 37 and subsections 40 (1) and (2) and 46 (1) and (2).

**PART III—TRANSITIONAL, SAVINGS AND
CONSEQUENTIAL AMENDMENT**

Interpretation

11. In this Part—

15 “commencement date” means the date of commencement of this Act;

 “former corporation” means ACTTAB Limited (a Territory owned corporation under section 6 of the *Territory Owned Corporations Act 1990*).

Transfer of employees, etc.

20 **12.** (1) Subject to section 13, a person who was employed by the former corporation immediately before the commencement day is taken—

- (a) to have been engaged by the Board with effect from the commencement day;
- 25 (b) to have been so engaged on the same terms and conditions as those that applied to the person, immediately before the commencement day, as an employee of the former corporation;
- (c) to have accrued an entitlement to benefits, in connection with that engagement by the Board, that is equivalent to the entitlement that the person had accrued, as an employee of the former corporation,
- 30 immediately before the commencement day.

(2) The service of a transferred employee as an employee of the Board is taken for all purposes to have been continuous with the service of the employee, immediately before the commencement day, as an employee of the former corporation.

Chief Executive Officer

13. A person who, immediately before the commencement date, held the office of Chief Executive Officer of the former corporation is taken—

- 5
- (a) to be Chief Executive Officer of the Board with effect from the commencement day; and
 - (b) to have been so engaged on the same terms and conditions as those that applied to the person, immediately before the commencement day, as an employee of the former corporation.

Transfer of assets and liabilities etc.

10 14. On the commencement date—

- (a) any rights, property or assets that, immediately before that date, were vested in the former corporation are, by force of this section, vested in the Board; and
- 15 (b) the Board becomes, by force of this section, liable to pay or discharge any debts, liabilities or obligations of the former corporation that existed immediately before that date.

Contracts, agreements and arrangements

20 15. (1) A contract, agreement or arrangement entered into by the former corporation as a party and in force immediately before the commencement date continues in force and has effect, on and after that date, as if—

- (a) the Board were substituted for the former corporation as a party to the contract, agreement or arrangement; and
- 25 (b) any reference in the contract, agreement or arrangement to the former corporation were (except in relation to matters that occurred before that date) a reference to the Board.

30 (2) A contract, agreement or arrangement continued in force by virtue of section 5 of the *Australian Capital Territory Gaming and Liquor Authority (Repeal) Act 1990* and in force immediately before the commencement date continues in force and has effect on and after that date, as if—

- (a) the Board were substituted for the former corporation as a party to the contract, agreement or arrangement; and
- 35 (b) any reference in the contract, agreement or arrangement that, by virtue of paragraph 5 (c) or (d) of that Act, was to be taken to be a reference to the Territory were (except in relation to matters that occurred before that date) a reference to the Board.

References in instruments

5 16. A reference to the former corporation in any instrument made, granted or issued before the commencement date and in force immediately before that date has effect, on and after that date, as if that reference were (except in relation to matters that occurred before that date) a reference to the Board.

Legal proceedings

17. (1) Where, before the commencement date—

- 10 (a) a cause of action by or against the former corporation had arisen but proceedings in respect of that cause of action had not been instituted before that date; or
- (b) proceedings by or against the former corporation had been instituted in a court, tribunal, commission or other body and those proceedings had not been completed before that date;

15 those proceedings may be instituted or continued by or against the Board, as the case requires.

20 (2) In proceedings instituted or continued pursuant to this section each party to the proceedings has the same rights, and is subject to the same obligations, as if the Board were the former corporation and the proceedings had been instituted or continued by or against the former corporation.

Registration of changes to title to land etc.

25 18. Where, by reason of the operation of section 14, any interest in land situated in the Territory becomes vested in the Board, the Minister may lodge with the Registrar of Titles a notice, signed by the Minister stating that the interest in land is vested in the Board by virtue of the operation of section 14 and the Registrar shall make such entries in the relevant registers kept by the Registrar, and do such other things, as are necessary to reflect the operation of that section in relation to that interest in land.

30 Consequential amendment—*Territory Owned Corporations Act 1990*

19. Schedule 1 to the *Territory Owned Corporations Act 1990* is amended by omitting "ACTTAB Limited".

PART IV—RENUMBERING

Renumbering of provisions

35 20. (1) The amended Act is amended as provided by this section.

(2) The Parts of the amended Act are renumbered in a single series so that they bear consecutive Roman numerals.

(3) The sections of the amended Act are renumbered in a single series so that they bear consecutive Arabic numerals.

5 (4) Any provision of the amended Act that refers to a provision of that Act that has been renumbered by subsection (2) or (3) is amended by omitting that reference and substituting a reference to the provision as so renumbered.

10 (5) A reference in a provision of another law of the Territory made before the commencement of this section (whether or not that provision has commenced), or in any instrument or document, to a provision of the amended Act that has been renumbered by subsection (2) or (3) shall (except as regards the operation of the provision before it was so renumbered) be construed as a reference to that provision as so renumbered.

(6) In this section—

15 “amended Act” means the Principal Act as amended by Part II of this Act.

NOTE

1. Reprinted as at 28 February 1991. See also Act No. 23, 1992.

NOTE ABOUT SECTION HEADING

On the day on which the *Betting (Totalizator Administration) Act 1964* is amended by this Act, the heading to section 35SA of that Act is altered by omitting “TAB” and substituting “Board”.