

AUSTRALIAN CAPITAL TERRITORY

Australian Capital Territory Gaming and Liquor Authority Ordinance 1987

No. 31 of 1987

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No. 31 of 1987

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910*.

Dated 29 June 1987.

N. M. STEPHEN
Governor-General

By His Excellency's Command,

G. SCHOLLES
Minister of State for Territories

An Ordinance to establish a Gaming and Liquor Authority for the Australian Capital Territory and for related purposes

PART I—PRELIMINARY

Short title

1. This Ordinance may be cited as the *Australian Capital Territory Gaming and Liquor Authority Ordinance 1987*.¹

Commencement

2. This Ordinance shall come into operation on such date as is fixed by the Minister of State for Territories by notice in the *Gazette*.

Interpretation

3. In this Ordinance, unless the contrary intention appears:

“Authority” means the Australian Capital Territory Gaming and Liquor Authority established by section 4;

“Betting Ordinance” means the *Betting (Totalizator Agency) Ordinance 1964*;

“deputy senior member” means the deputy senior member of the Authority;

“gaming machine” has the same meaning as in the Gaming Machine Ordinance;

“Gaming Machine Ordinance” means the *Gaming Machine Ordinance 1987*;

“Liquor Ordinance” means the *Liquor Ordinance 1975*;

“member” means a member of the Authority;

“race” has the same meaning as in the Betting Ordinance;

“senior member” means the senior member of the Authority;

“totalizator betting” has the same meaning as in the Betting Ordinance.

PART II—ESTABLISHMENT, FUNCTIONS AND POWERS OF AUTHORITY

Establishment of Authority

4. (1) There is established by this Ordinance an Authority by the name of the Australian Capital Territory Gaming and Liquor Authority.

(2) The Authority:

- (a) is a body corporate, with perpetual succession;
- (b) shall 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.

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

(4) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Authority affixed to a document and shall presume that it was duly affixed.

Functions of Authority

5. (1) The functions of the Authority are:

- (a) to conduct or provide, in accordance with the Betting Ordinance, totalizator betting facilities in respect of races held within or outside the Territory:
 - (i) by operating its own totalizator; or
 - (ii) by means of agreements entered into under section 20 of the Betting Ordinance;
- (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 that lottery;
- (d) to conduct, as the promoter of an approved pool betting scheme, a pool betting competition under that scheme;
- (e) to act as an agent of the promoter of an approved pool betting scheme in the conduct by the promoter of a pool betting competition under that scheme;
- (f) to consider and determine applications or other matters under the Liquor Ordinance;
- (g) to conduct hearings in relation to applications or other matters under the Liquor Ordinance;
- (h) to recommend the general standards that should be met in relation to the construction of premises in respect of which licences under the Liquor Ordinance are sought;
- (i) to consider and determine applications or other matters under the Gaming Machine Ordinance;
- (j) to conduct inquiries in relation to matters under the Gaming Machine Ordinance; and
- (k) to undertake under the Gaming Machine Ordinance the acquisition of gaming machines for licensees within the meaning of that Ordinance.

(2) In addition to the functions of the Authority under subsection (1), the Authority shall have such other functions and duties as are conferred on it by or under:

- (a) the Betting Ordinance;

- (b) the Gaming Machine Ordinance;
- (c) the Liquor Ordinance; or
- (d) any other Ordinance.

(3) In this section:

“approved pool betting scheme” has the same meaning as in the *Pool Betting Ordinance 1964*;

“lottery” means a lottery that is an approved lottery or exempt lottery within the meaning of the *Lotteries Ordinance 1964*;

“pool betting competition” has the same meaning as in the *Pool Betting Ordinance 1964*;

“promoter”, in relation to an approved pool betting scheme, means the person to whom approval for the carrying on of the scheme has been granted under section 6 of the *Pool Betting Ordinance 1964*.

Powers of Authority

6. In addition to any other power conferred on it by this or another Ordinance, the Authority has power to do all things necessary or convenient to be done in connection with, or incidental to, the performance of its functions and duties.

Directions to Authority

7. (1) In the exercise of its powers and in the performance of its functions the Authority is subject to the directions of the Minister.

(2) The Minister may give a direction under subsection (1) in relation to the policy the Authority is to pursue in connection with the exercise of its powers or the performance of its functions.

(3) The Authority shall comply with a direction given to it under subsection (1).

(4) A direction of the Minister under subsection (1) shall be in writing.

Delegation by Authority

8. (1) The Authority may, either generally or as otherwise provided by the instrument of delegation, by writing under its common seal, delegate to a member of the staff of the Authority or to an officer of the Australian Public

Service all or any of its powers under this or another Ordinance, other than this power of delegation.

(2) A power so delegated, when exercised by the delegate, shall, for the purposes of this or the other Ordinance, be deemed to have been exercised by the Authority.

(3) A delegation under this section does not prevent the exercise of a power by the Authority.

PART III—CONSTITUTION AND MEETINGS OF AUTHORITY

Membership of Authority

9. (1) The Authority shall consist of 5 members, namely:

- (a) the senior member of the Authority;
- (b) the deputy senior member of the Authority; and
- (c) 3 other members.

(2) The members shall be appointed by the Minister.

(3) The senior member may be appointed either as a full-time member or as a part-time member.

(4) The members other than the senior member shall be appointed as part-time members.

(5) The appointment of a member is not invalidated, and shall not be called in question, by reason of a defect or irregularity in or in connection with the appointment of the member.

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

Tenure of office

10. Subject to this Ordinance, a member holds office for such period, not exceeding 5 years, as is specified in the instrument of appointment, but is eligible for re-appointment.

Acting appointments

11. (1) The Minister may appoint a person to act as the senior member:

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

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

(2) The Minister may appoint a person to act as a member other than the senior member:

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

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

(3) A person appointed to act as the senior member in accordance with paragraph (1) (b) may be appointed:

- (a) where the senior member is a member who has been appointed on a full-time—either on a full-time basis or on a part-time basis; or
- (b) where the senior member is a member who has been appointed on a part-time basis—on a part-time basis.

(4) While a person is acting as the senior member, the person has and may exercise all the powers, and shall perform all the functions, of the senior member.

(5) While a person is acting as a member other than the senior member:

- (a) if the person was appointed to act in accordance with paragraph (2) (a)—the person has and may exercise all the powers, and shall perform all the functions, of a member other than the senior member or deputy senior member; and
- (b) if the person was appointed to act in accordance with paragraph (2) (b)—the person has and may exercise all the powers, and shall perform all the functions, of the member who is absent from

duty or from the Territory or is unable to perform the functions of his or her office.

(6) The appointment of a person under subsection (1) or (2) may be expressed to have effect only in such circumstances as are specified in the instrument of appointment.

(7) The Minister may:

- (a) determine the terms and conditions of appointment, including remuneration and allowances, of a person acting as the senior member or as a member; and
- (b) terminate such an appointment at any time.

(8) Where:

- (a) a person is acting as the senior member in accordance with paragraph (1) (b); or
- (b) a person is acting as a member other than the senior member in accordance with paragraph (2) (b);

and the office of the senior member or member, as the case may be, becomes vacant while that person is so acting, subject to subsection (6), that person may continue so to act until the Minister otherwise directs, the vacancy is filled or a period of 12 months from the date on which the vacancy occurred expires, whichever first happens.

(9) The appointment of a person to act as the senior member or as a member other than the senior member ceases to have effect if the person resigns the appointment by writing signed by him or her and delivered to the Minister.

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

- (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.

(11) Where a person is acting as the senior member in pursuance of an appointment under subsection (1) or as a member in pursuance of an appointment under subsection (2), the person shall, for the purposes of the

provisions of this Ordinance, other than section 14, and for the purposes of the Betting Ordinance, the Liquor Ordinance and the Gaming Machine Ordinance be deemed to be the senior member, or a member, as the case may be.

Leave of absence

12. (1) Where the senior member is appointed as a full-time member, the Minister may grant leave of absence to the senior member upon such terms and conditions as to remuneration or otherwise as the Minister determines.

(2) The Minister may grant to a part-time member leave of absence from a meeting of the Authority.

Resignation

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

Remuneration and allowances

14. (1) A member shall be paid such remuneration as is determined by the Remuneration Tribunal but, if no determination of that remuneration is in force, a member shall be paid such remuneration as is prescribed.

(2) A member shall be paid such allowances as are prescribed.

(3) This section has effect subject to the *Remuneration Tribunals Act 1973*.

Disclosure of interests

15. (1) A member who has a direct or indirect pecuniary interest in a matter being considered or about to be considered by the Authority shall, as soon as practicable after the relevant facts have come to the member's knowledge, disclose the nature of his or her interest at a meeting of the Authority.

(2) Where the Authority is considering, or is about to consider, a matter relating to a body, whether corporate or unincorporate, that is the holder of, or that has applied for, a licence under the Gaming Machine Ordinance or the Liquor Ordinance (whether or not that matter arises under or in relation to that Ordinance), a member:

- (a)** who is a director, secretary or other officer of that body or is concerned in the management of that body; or
- (b)** who directly or indirectly receives any remuneration, emoluments or fees from that body;

shall be deemed for the purposes of subsection (1) to have a direct or indirect pecuniary interest in that matter.

(3) A disclosure under subsection (1) shall be recorded in the minutes of the meeting of the Authority and the member shall not:

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

Meetings

16. (1) The Authority shall hold such meetings as are necessary for the efficient performance of its functions.

(2) The senior member or, if the senior member is not available, the deputy senior member may convene a meeting of the Authority.

(3) The senior member shall preside at all meetings of the authority at which he or she is present.

(4) If the senior member is not present at a meeting of the Authority:

- (a) the deputy senior member shall preside at that meeting; or
- (b) if the deputy senior member is not present, the members present shall elect one of their number to preside at that meeting.

(5) At a meeting of the Authority, 3 members constitute a quorum.

(6) Questions arising at a meeting of the Authority shall be determined by a majority of the votes of the members present and voting.

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

(8) The member presiding at a meeting of the Authority may regulate the conduct of proceedings at the meeting.

(9) The Authority shall:

- (a) keep a record of proceedings at each meeting of the Authority; and
- (b) as soon as is reasonably practicable after the meeting, furnish a copy of that record to the Minister.

PART IV—STAFF

Chief Executive

17. (1) The Authority shall appoint a person to be the Chief Executive of the Authority.

(2) The Chief Executive shall, subject to and in accordance with the general directions of the Authority, manage the affairs of the Authority.

(3) The Chief Executive holds office on such terms and conditions as are determined by the Authority with the approval of the Public Service Board.

Staff

18. (1) Subject to subsection (2), the staff required to assist the Authority in the performance of its functions shall be persons appointed or employed under the *Public Service Act 1922*.

(2) The Authority may engage such employees as are necessary for the performance of its functions referred to in paragraphs 5 (1) (1), (b), (c), (d) and (e).

(3) The terms and conditions of employment, excluding the terms and conditions relating to superannuation, of persons engaged under subsection (2) are such as are determined by the Authority with the approval of the Public Service Board.

(4) The terms and conditions of employment relating to superannuation of persons engaged under subsection (2) are such as are determined by the Authority with the approval of the Minister for Finance.

PART V—FINANCE

Capital of Authority

19. (1) The capital of the Authority is the aggregate of:

- (a) the amount determined by the Minister, in consultation with the Minister for Finance, to be the value, at the date of vesting in the Authority, of the rights, property and assets vested in the Authority pursuant to section 27;
- (b) any amounts paid to the Authority by the Minister for Finance out of moneys appropriated by the Parliament for the purpose of providing further capital for the Authority; and
- (c) the surplus of the Authority for each financial year;

less the aggregate of:

- (d) the sum of, at the date the Authority incurred liability for, the debts, liabilities and obligations that the Authority became, by virtue of section 27, liable to pay or discharge; and
- (e) amounts of capital paid to the Commonwealth by the Authority.

(2) The capital of the Authority is payable to the Commonwealth at such times, and in such amounts, as the Minister, in consultation with the Minister for Finance, determines.

(3) In making a determination under subsection (2), the Minister shall have regard to any advice that the Authority has given to him or her in relation to its financial affairs.

(4) A determination under this section shall be made by instrument in writing.

(5) For the purposes of this Ordinance, the surplus of the Authority for a financial year is the amount (if any) of revenue remaining after deducting from the revenue received or receivable by the Authority in respect of the financial year the expenditure and provision for expenditure properly chargeable against that revenue.

Borrowing

20. (1) The Minister for Finance may, on behalf of the Commonwealth, out of moneys appropriated by the Parliament for the purpose, lend moneys to the Authority on such terms and conditions as the Minister for Finance determines by instrument in writing.

(2) The Authority may, with the approval of the Treasurer:

- (a) borrow moneys, otherwise than from the Commonwealth; or
- (b) raise moneys, otherwise than by borrowing;

that are from time to time necessary for the exercise of its powers or the performance of its functions.

(3) Without limiting the generality of subsection (2), the Authority may, under that subsection, borrow moneys, or raise moneys otherwise than by borrowing, by dealing with securities.

(4) Notwithstanding subsection (2), the Authority shall not borrow moneys, or raise moneys otherwise than by borrowing, from:

- (a) a person who manufactures or supplies gaming machines; or
 - (b) a corporation that is, in relation to a corporation that manufactures or supplies gaming machines, a related corporation.
- (5) The Authority may give security over the whole or any part of its assets for:
- (a) the repayment by the Authority of moneys borrowed by virtue of subsection (1) or (2) and the payment by the Authority of interest on moneys so borrowed; or
 - (b) the payment by the Authority of moneys (including any interest) that the Authority is liable to pay with respect to moneys raised by virtue of subsection (2).
- (6) The Authority shall not borrow moneys, or raise moneys otherwise than by borrowing, except in accordance with this section.
- (7) In this section, “related corporation” has the same meaning as in the *Companies Act 1981*.

Restriction on contracts

21. (1) The Authority shall not, except with the approval of the Minister, enter into a contract involving the payment or receipt by the Authority of an amount exceeding \$100,000 or such other amount as is prescribed.

(2) Subsection (1) does not apply in relation to contracts entered into by the Authority pursuant to Division 2 of Part V of the Gaming Machine Ordinance.

Estimates

22. The Authority shall:

- (a) prepare estimates, in such form as the Minister directs, of the receipts and expenditure of the Authority for each financial year and, if the Minister so directs, for any other period specified by the Minister; and
- (b) submit those estimates to the Minister not later than such date as the Minister directs.

PART VI—MISCELLANEOUS

Reports

23. The Authority shall:

- (a) keep the Minister informed of the general conduct of its operations; and
- (b) where the Minister requests the Authority to provide the Minister with information concerning a specific matter relating to the Authority's past, present or proposed operations, including information relating to any policy of the Authority, the Authority shall comply with the request.

Regulations

24. The Minister may make regulations, not inconsistent with this Ordinance, prescribing matters:

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

PART VII—TRANSITIONAL

Interpretation

25. In this Part:

“commencement date” means the date of commencement of this Ordinance;

“former Authority” means the Australian Capital Territory Gaming and Liquor Authority established by section 4 of the Act;

“the Act” means the *Australian Capital Territory Gaming and Liquor Authority Act 1981*.

Employees of Authority

26. (1) A person who, immediately before the commencement date, was employed, or was, by virtue of subsection 31 (2) of the Act, to be deemed to have been employed, by the former Authority shall, on and from the commencement date, be deemed to be engaged by the Authority under subsection 18 (2) and shall be deemed to be so engaged on the same terms and conditions as the terms and conditions on which the person was employed, or was to be deemed to have been employed, immediately before the commencement date.

(2) The Authority has, in relation to a person to whom subsection (1) applies, the same rights and obligations in relation to that person and in relation to that person's engagement as the former Authority had in relation to that

person and in relation to that person's employment immediately before the commencement date.

Transfer of assets, liabilities etc.

27. On the commencement date:

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

Contract, agreements and arrangements

28. (1) A contract, agreement or arrangement entered into by the former Authority 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 Authority were substituted for the former Authority as a party to the contract, agreement or arrangement; and
- (b) any reference in the contract, agreement or arrangement to the former Authority were (except in relation to matters that occurred before that date) a reference to the Authority.

(2) A contract, agreement or arrangement continued in force by virtue of section 32 of the Act and in force immediately before the commencement date continues in force and has effect, on and after that date, as if:

- (a) the Authority were substituted for the former Authority as a party to the contract, agreement or arrangement; and
- (b) any reference in the contract, agreement or arrangement that, by virtue of paragraph 32 (b) of the Act, was to be taken to be a reference to the former Authority were (except in relation to matters that occurred before that date) a reference to the Authority.

References in instruments

29. A reference in any instrument made, granted or issued before the commencement date and in force immediately before that date:

- (a) to the former Authority; or

- (b) that is, by virtue of section 36 of the Act, to be taken to be a reference to the former Authority;

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 Authority.

Authority deemed to have done certain things

30. An act or thing done by or on behalf of the former Authority before the commencement date or that is, by virtue of section 37 of the Act, to be deemed to have been done by or on behalf of the former Authority shall, for the purposes of the operation after the commencement date of:

- (a) the Betting Ordinance;
- (b) the Gaming Machine Ordinance; or
- (c) the Liquor Ordinance;

as the case may be, be deemed to have been done by or on behalf of the Authority.

Legal proceedings

31. (1) Where, before the commencement date, a cause of action by or against the former Authority had arisen but proceedings in respect of that cause of action had not been instituted before that date, proceedings in respect of that cause of action may be instituted by or against the Authority.

(2) Where:

- (a) before the commencement date, proceedings by or against the former Authority had been instituted in a court, tribunal, commission or other body but those proceedings had not been completed before that date; or
- (b) immediately before the commencement date, proceedings to which the former Authority had, by virtue of section 33 of the Act, been substituted as a party were pending in any court or tribunal;

the Authority is, by force of this section, substituted for the former Authority as a party to the proceedings and those proceedings may be continued by or against the Authority.

(3) 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 Authority were the former Authority and the proceedings had been instituted or continued by or against the former Authority.

Registration of changes in title to land

32. Where, by reason of the operation of section 27, any interest in land situated in the Territory becomes vested in the Authority, the Australian Government Solicitor may lodge with the Registrar of Titles a notice, signed by the Australian Government Solicitor or by an officer of the Attorney-General's Department authorised by the Australian Government Solicitor, stating that that interest in land is vested in the Authority by virtue of the operation of section 27 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 section 27 in relation to that interest in land.

NOTE

1. Notified in the *Commonwealth of Australia Gazette* on 30 June 1987.